

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

In Re:

G.M. CROCETTI, INC.,

Debtor.

G.M. CROCETTI, INC.,

Plaintiff,

v.

TRATAROS CONSTRUCTION, INC. and
TRAVELERS CASUALTY AND SURETY
COMPANY,

Defendants.

Bankruptcy Case No. 07-10319 (BRL)

Adversary No. 08-01234 (BRL)
Civil Action No. 08-CV- 6239 (DLC)

**SUPPLEMENTAL DECLARATION
OF ELI J. ROGERS, ESQ.
IN FURTHER SUPPORT OF MOTION
FOR ORDER WITHDRAWING THE
REFERENCE FOR ADVERSARY
PROCEEDING NO. 08-01234**

ELI J. ROGERS, ESQ., of full age and under penalty of perjury, pursuant to 28 U.S.C. § 1746 and Local Civil Rule 1.10, declares as follows:

1. I am associated with the law firm of Dreifuss Bonacci & Parker, LLP, attorneys for Travelers Casualty and Surety Company (“Travelers”) and Trataros Construction, Inc. (“Trataros”) in this matter, and as such am fully familiar with the facts set forth herein. I submit this Supplemental Declaration in further support of Travelers’ and Trataros’ motion pursuant to 28 U.S.C.A. § 157(d) for an Order withdrawing the District Court’s referral of the adversary proceeding commenced by G.M. Crocetti, Inc. (“Crocetti”) bearing Adversary No. 08-01234.

2. On or about March 11, 2003, Crocetti transmitted to the Dormitory Authority - State of New York (“DASNY”) a claim letter containing a breakdown of the items of its claim. Per this letter, Crocetti’s claim consists of two general parts, one seeking payment for “approved” work and extras, consisting of two sub-totals for \$177,473.43 and 333,257.01,

respectively; and a separate portion seeking payment for “pending” (i.e, unapproved) “extras”, valued at a sub-total of \$567,834.64. This latter section of the claim seeks payment for items such as a “claim for lost productivity” in the amount of \$369,000.00; a claim for the “balance due on escalation claim” in the amount of \$26,000.00; a claim for additional overhead costs valued at \$17,779.12; a claim for compensation for “premium time” in the amount of \$31,291.96; and a claim for alleged extra work allegedly performed on a time and material basis, in the amount of \$123,763.56. A true and correct copy of the March 11, 2003 claim letter from Crocetti to DASNY is attached hereto as **Exhibit A**.

3. Attached hereto as **Exhibit B** are excerpts of a true and correct copy of the transcript of the deposition of Charles Bartlett, DASNY’s Rule 30(b)(6) designee, taken on May 21, 2008.

4. Attached hereto as **Exhibit C** are excerpts of a true and correct copy of the transcript of the deposition of Charles Bartlett, DASNY’s Rule 30(b)(6) designee, taken on May 22, 2008.

5. Attached hereto as **Exhibit D** is a true and correct copy of Change Order GC2-114, issued in connection with Trataros’ work on the Project, relating to installation of hydraulic cement as “floor fill” in the “food serverly area,” in connection with the Project’s terrazzo flooring work. The last page of the document attaches union work rates for Crocetti laborers.

6. Attached hereto as **Exhibit E** is a true and correct copy of Change Order GC2-202, issued in connection with Trataros’ work on the Project, relating to the installation of hydraulic cement “in areas left out by the underlayment subcontractor.” The last four pages of the document attach labor rate worksheets for Crocetti laborers.

7. On July 22, 2008, a Pre-Trial Conference was held before the Honorable Burton R. Lifland, U.S.B.J., in the adversary proceeding entitled G.M. Crocetti, Inc. v. Trataros Construction, Inc. et al., Adversary No. 08-01234 (BRL), pending before the United States Bankruptcy Court for the Southern District of New York (the "Adversary Proceeding"). To the best of my knowledge, that conference is the first and only conference which has been held to date in the Adversary Proceeding.

8. An unopposed motion to stay the Adversary Proceeding has been filed by Travelers and Trataros. Crocetti has not submitted any opposition to the motion to stay.

9. A true and correct copy of the Rule 26 Disclosures served in this action by DASNY is attached hereto as **Exhibit F**.

10. Attached hereto as **Exhibit G** are excerpts of a true and correct copy of the transcript of the deposition of Craig Negus, Bartec Industries, Inc.'s Rule 30(b)(6) designee, taken on August 21, 2008. The excerpted portion of Mr. Negus' testimony discusses the installation of underlayment by TDX Construction Corp. in connection with the Project's epoxy terrazzo floors.

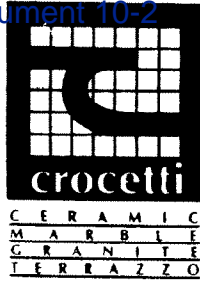
Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment.

Dated: Florham Park, New Jersey
August 29, 2008

/S/
Eli J. Rogers, Esq.

EXHIBIT

A



VIA FACSIMILE & MAIL
212-273-5121

March 11, 2003

Mr. Nick D'Ambrosio
Dormitory Authority State of New York
1 Penn Plaza
52nd Floor
New York, NY 10119

Re: Outstanding claims – Baruch College

Dear Mr. D'Ambrosio:

G.M. Crocetti, Inc. is a subcontractor to Trataros Construction, Inc. on the Baruch College contract.

There is \$901,091.65 due G.M. Crocetti, Inc. I have enclosed a summary of our account for your review along with the current requisition.

At this time I am requesting that you as head of this project schedule a meeting of all concerned parties to meet and resolve the outstanding items. My office has been in touch with TDX, Trataros and DASNY to resolve the matter, however we have had only limited success due to the following:

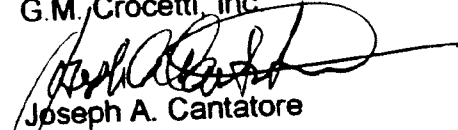
1. There are questions as to responsibility between TDX and Trataros as concerns the extras.
2. There is a question as to why the terrazzo is delaminating from the substrate. Some of the extras concern this issue. Attached is a copy of G.M. Crocetti, Inc. letter to TDX, dated March 11 2003, in connection with the foregoing issue.
3. Final settlement of the claim for lost productivity is contingent upon settling all outstanding items referred to above in item 1 & 2.

GM CROCETTI, INC. 3960 MERRITT AVE. BRONX, NY 10466 718-994-0900 FAX 718-994-4505

CR1485

At your earliest convenience please give me a call to discuss any questions that you may have or to arrange a meeting with TDX and Trataros at your office. We look forward to hearing from you. Thank you for your anticipated prompt attention to this request.

Sincerely,
G.M. Crocetti, Inc.


Joseph A. Cantatore
Controller

Enclosures: Analysis of balance due
Current requisition

Cc: Arthur Cavazzi, Pres., G.M. Crocetti, Inc.
Vincent Anastasi, Vice Pres., G.M. Crocetti, Inc.
Gary Marcus, Terrazzo Manager, G.M. Crocetti, Inc.

VIA FACSIMILE:

TDX Constructin Corporation
Attention: Mr. Jim Jones, President (212-279-1983)

Dormitory Authority of the State of New York
Attention: Mr. Jack Kemp, Chief of Construction (518-257-3468)
Mr. John Muller (518-257-3100)

Trataros Construction, Inc.
Attention: Mr. Costas Trataros, Pres. (718-238-4462)
Ms. Athena Curis, Proj. Mgr. (718-238-4462)

Analysis of Balance Due Crocetti - Baruch College

Base Contract:	\$3,008,000.00	
Total Extras Approved Prior to 10/15/02	\$266,734.29	
		<u>\$3,274,734.29</u>

Payments Received to Date:

Check # 13378 - Received 3/21/00 (90% Bond)	\$36,000.00	
Check # 18417 - Received 12/26/00	\$97,589.70	
Check # 18994 - Received 1/24/01	\$137,310.30	
Check # 19512 - Received 2/22/01	\$216,000.00	
Check # 20064 - Received 3/26/01	\$155,700.00	
Check # 20617 - Received 4/25/01	\$228,600.00	
Check # 21133 - Received 5/24/01	\$39,826.00	
Check # 21132 - Received 5/24/01	\$130,063.00	
Check # 21735 - Received 6/22/01	\$150,135.70	
Check # 22423 - Received 7/25/01	\$174,642.75	
Check # 22881 - Received 8/24/01	\$207,924.30	
Check # 23494 - Received 9/27/01	\$208,863.90	
Check # 24065 - Received 10/26/01	\$373,468.50	
Check # 24485 - Received 11/27/01	\$143,609.40	
Check # 24956 - Received 12/27/01	\$93,878.39	
Check # 25542 - Received 1/30/02	\$210,024.67	
Check # 25929 - Received 2/27/02	\$188,264.25	
Check # 26218 - Received 4/5/02	\$81,216.00	
Check # 26803 - Received 5/14/02	\$54,144.00	
Check # 26793 - Received 5/14/02	\$20,000.00	
Check # 30118 - Received 10/15/02	\$150,000.00	
	<u>\$3,097,260.86</u>	<u>(\$3,097,260.86)</u>

Subtotal - \$177,473.43

Extras Approved Subsequent to 10/15/02:

# GC2-169 - T&M	\$21,303.77	
#GC2-182 - T&M	\$19,454.90	
CO # 006 - Added Premium Time	\$115,024.91	
	<u>\$155,783.58</u>	<u>\$155,783.58</u>
		<u>\$333,257.01</u>

Pending Extras:

Premium Time	\$31,291.96	
Extra Work (Time & Material)	\$123,763.56	
Balance Due on Escalation Claim	\$26,000.00	
Claim for Lost Productivity	\$369,000.00	
Overhead Costs	\$17,779.12	
	<u>\$567,834.64</u>	<u>\$567,834.64</u>

Total Owed to GM Crocetti Inc. \$901,091.65

APPLICATION AND CERTIFICATE FOR PAYMENT AIA DOCUMENT G702 (Instructions on reverse side) PAGE ONE OF 2 PAGES

TO OWNER: Trataros Construction Inc.
664 64th Street
Brooklyn, NY 11220
Attn: Jonathan Horowitz
G.M. Crocetti, Inc.
3960 Merritt Ave.
Bronx, NY 10466

FROM CONTRACTOR: VIA ARCHITECT:

CONTRACT FOR: 98106

PROJECT: Baruch College Site B

APPLICATION NO: 29-Rev.2
PERIOD TO: 2/28/03
PROJECT NOS.:
CONTRACT DATE:

Distribution to:
☐ OWNER
☐ ARCHITECT
☐ CONTRACTOR
☐
☐

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

CONTRACTOR: G.M. Crocetti, Inc.
By: *[Signature]* V.P. Date: 2/26/03
State of: New York
County of: Bronx

Subscribed and sworn to before me this 26th day of February, 2009
MICHAEL ZANZANO
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN WESTCHESTER COUNTY
COMMISSION EXPIRES AUGUST 31, 2005
My Commission expires:

ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising this application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED \$
(Attach explanation if amount certified differs from the amount applied for. Initial all figures on this Application and on the Continuation Sheet that are changed to conform to the amount certified.)

By: _____ Date: _____
This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

9810621992
THE AMERICAN INSTITUTE OF ARCHITECTS, 1745 NEW YORK
COPYRIGHT LAWS AND WILL SUBJECT THE VIOLATOR TO LEGAL PROSECUTION.

CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for payment, as shown below, in connection with the Contract. Continuation Sheet, AIA Document G703, is attached.

1. ORIGINAL CONTRACT SUM \$3,008,000.00

2. Net change by Change Orders \$990,352.51

3. CONTRACT SUM TO DATE (Line 1 + 2) \$3,998,352.51

4. TOTAL COMPLETED & STORED TO DATE (Column G on G703) \$3,998,352.51

5. RETAINAGE \$0.00
a. % of Completed Work (Columns D + E on G703) \$0.00
b. % of Stored Material (Column F on G703) \$
Total Retainage (Line 5a + 5b or Total in Column I of G703) \$0.00

6. TOTAL EARNED LESS RETAINAGE (Line 4 less Line 5 Total) \$3,998,352.51

7. LESS PREVIOUS CERTIFICATES FOR PAYMENT (Line 6 from prior Certificate) \$3,097,260.86

8. CURRENT PAYMENT DUE \$901,091.65

BALANCE TO FINISH, INCLUDING RETAINAGE

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Owner		
Total approved this Month		
TOTALS		
NET CHANGES by Change Order		

AIA DOCUMENT G702 • APPLICATION AND CERTIFICATE FOR PAYMENT • 1992 EDITION • AIA • ©1992 • THE AMERICAN INSTITUTE OF ARCHITECTS, 1745 NEW YORK
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Trade Payment Breakdown
 General Contractor:
 PROJECT NAME:
 General Contractor Number:
 Job Site Number:

Trataros Construction Inc.
 Baruch College
 98106

G.M. Crocetti, Inc.
 3900 Merritt Ave.
 Bronx, NY 10465

Application Number:
 Application Date:
 Period To:
 Project Number:

28
 26-Feb-03
 1/31/03

A	B	C	D	E	F	G	H	I
Quantity	Description Of Work	Scheduled Value	From Previous Requisitions	Work Completed This Period	Materials Presently Stored	Total Completed & Stored To Date	%	Balance To Finish
								Retainage 0.0%
TERRAZZO								
Epoxy								
	14th Floor - Epoxy	\$221,150.00	\$221,150.00			\$221,150.00	100%	\$0.00
	13th Floor - Epoxy	\$132,600.00	\$132,600.00			\$132,600.00	100%	\$0.00
	12th Floor - Epoxy	\$96,265.00	\$96,265.00			\$96,265.00	100%	\$0.00
	11th Floor - Epoxy	\$167,800.00	\$167,800.00			\$167,800.00	100%	\$0.00
	10th Floor - Epoxy	\$93,350.00	\$93,350.00			\$93,350.00	100%	\$0.00
	9th Floor - Epoxy	\$93,700.00	\$93,700.00			\$93,700.00	100%	\$0.00
	8th Floor - Epoxy	\$210,000.00	\$210,000.00			\$210,000.00	100%	\$0.00
	7th Floor - Epoxy	\$62,980.00	\$62,980.00			\$62,980.00	100%	\$0.00
	6th Floor - Epoxy	\$70,400.00	\$70,400.00			\$70,400.00	100%	\$0.00
	5th Floor - Epoxy	\$126,750.00	\$126,750.00			\$126,750.00	100%	\$0.00
	4th Floor - Epoxy	\$85,000.00	\$85,000.00			\$85,000.00	100%	\$0.00
	3rd Floor - Epoxy	\$92,600.00	\$92,600.00			\$92,600.00	100%	\$0.00
	2nd Floor - Epoxy	\$338,200.00	\$338,200.00			\$338,200.00	100%	\$0.00
	Ground Floor - Epoxy	\$435,420.00	\$435,420.00			\$435,420.00	100%	\$0.00
	Cellar - Epoxy	\$94,900.00	\$94,900.00			\$94,900.00	100%	\$0.00
	Sub Cellar - Epoxy	\$193,500.00	\$193,500.00			\$193,500.00	100%	\$0.00
	2nd Sub Cellar - Epoxy	\$123,400.00	\$123,400.00			\$123,400.00	100%	\$0.00
	Total - Epoxy	\$2,638,015.00	\$2,638,015.00	\$0.00	\$0.00	\$2,638,015.00		\$0.00
Precast								
	14th Floor - Precast Stairs	\$19,002.00	\$19,002.00			\$19,002.00	100%	\$0.00
	13th Floor - Precast Stairs	\$30,667.00	\$30,667.00			\$30,667.00	100%	\$0.00
	12th Floor - Precast Stairs	\$30,667.00	\$30,667.00			\$30,667.00	100%	\$0.00
	11th Floor - Precast Stairs	\$30,666.00	\$30,666.00			\$30,666.00	100%	\$0.00
	10th Floor - Precast Stairs	\$13,000.00	\$13,000.00			\$13,000.00	100%	\$0.00
	9th Floor - Precast Stairs	\$13,000.00	\$13,000.00			\$13,000.00	100%	\$0.00
	8th Floor - Precast Stairs	\$13,000.00	\$13,000.00			\$13,000.00	100%	\$0.00
	7th Floor - Precast Stairs	\$13,000.00	\$13,000.00			\$13,000.00	100%	\$0.00
	6th Floor - Precast Stairs	\$13,000.00	\$13,000.00			\$13,000.00	100%	\$0.00
	5th Floor - Precast Stairs	\$13,000.00	\$13,000.00			\$13,000.00	100%	\$0.00
	4th Floor - Precast Stairs	\$13,000.00	\$13,000.00			\$13,000.00	100%	\$0.00
	3rd Floor - Precast Stairs	\$13,000.00	\$13,000.00			\$13,000.00	100%	\$0.00
	2nd Floor - Precast Stairs	\$12,500.00	\$12,500.00			\$12,500.00	100%	\$0.00
	Ground Floor - Precast Stairs	\$12,483.00	\$12,483.00			\$12,483.00	100%	\$0.00
	Cellar - Precast Stairs	\$9,000.00	\$9,000.00			\$9,000.00	100%	\$0.00
	Sub Cellar - Precast Stairs							
	Total - Precast Stairs	\$261,985.00	\$261,985.00	\$0.00	\$0.00	\$261,985.00	100%	\$0.00
	Subtotal - Epoxy & Precast	\$2,900,000.00	\$2,900,000.00	\$0.00	\$0.00	\$2,900,000.00	100%	\$0.00

Trade Payment Breakdown
 General Contractor:
PROJECT NAME:
 General Contractor Number:
 Job Site Number:

Trataros Construction Inc.
 Baruch College
 98106

G.M. Crocetti, Inc.
 3900 Merritt Ave.
 Bronx, NY 10466

Application Number:
 Application Date:
 Period To:
 Project Number:

28
 26-Feb-03
 1/31/03

A	B	C	D	E	F	G	H	I
Quantity	Description Of Work	Scheduled Value	From Previous Requisitions	Work Completed This Period	Materials Presently Stored	Total Completed & Stored To Date	% Completed	Balance To Finish
								Retainage 0.0%
	STONE WORK	\$68,000.00	\$68,000.00			\$68,000.00	100%	\$0.00
	BOND	\$40,000.00	\$40,000.00			\$40,000.00	100%	\$0.00
	Total Base Contract	\$3,008,000.00	\$3,008,000.00	\$0.00	\$0.00	\$3,008,000.00	100%	\$0.00
	Approved Extras:							
CO # 001	13th Floor Terrazzo	\$41,510.00	\$41,510.00			\$41,510.00	100%	\$0.00
CO # 002	Abrasive In-fills @ Stair #3	\$3,750.00	\$3,750.00			\$3,750.00	100%	\$0.00
CO # 003	Servery In-fill (Ground A)	\$40,000.00	\$40,000.00			\$40,000.00	100%	\$0.00
CO # 004	Premium Time (Partial)	\$31,474.29	\$31,474.29			\$31,474.29	100%	\$0.00
CO # 005	Delay Claim (Partial)	\$150,000.00	\$150,000.00			\$150,000.00	100%	\$0.00
GC2-169	Subject # 1523 (T&M)	\$21,303.77		\$21,303.77		\$21,303.77	100%	\$0.00
GC2-182	Subject ND# 1288 (T&M)	\$19,454.90		\$19,454.90		\$19,454.90	100%	\$0.00
CO # 006	Rev. 2 - Premium Time (Balance of Approved to Date)	\$115,024.91		\$115,024.91		\$115,024.91	100%	\$0.00
	Total Approved Extras	\$422,517.87	\$266,734.29	\$155,783.58	\$0.00	\$422,517.87	100%	\$0.00
	Contract & Approved Extras	\$3,430,517.87	\$3,274,734.29	\$155,783.58	\$0.00	\$3,430,517.87	100%	\$0.00

Pending Extras
Premium Time

C-10608	3569 - Installed Epoxy in Hollow Areas @ PT	\$387.45	\$387.45			\$387.45	100%	\$0.00
C-10625	3511 - Ground/Polished Hollow Areas @ PT & DT	\$598.20	\$598.20			\$598.20	100%	\$0.00
C-10626	3507 - Drilled Holes in Hollow Areas/Grind Patch @ PT	\$585.48	\$585.48			\$585.48	100%	\$0.00
C-10627	3505 - Ground/Polished Hollow Areas @ PT	\$381.15	\$381.15			\$381.15	100%	\$0.00
C-10628	3503 - Ground/Polished Hollow Areas @ PT	\$381.15	\$381.15			\$381.15	100%	\$0.00
C-10631	3501 - Installed Terrazzo in Hollow Areas @ PT	\$402.36	\$402.36			\$402.36	100%	\$0.00
C-10637	3583 - Repaired Hollow Areas - Ground Fl @ DT	\$697.69	\$697.69			\$697.69	100%	\$0.00
C-10638	3582 - Repaired Hollow Areas - G. Fl. Sat. 1/26/02	\$387.45	\$387.45			\$387.45	100%	\$0.00
C-10642	3594 - Polished & Sealed Patches @ PT	\$366.24	\$366.24			\$366.24	100%	\$0.00
C-10644	3592 - Ground Patches on 1st Floor @ PT	\$366.24	\$366.24			\$366.24	100%	\$0.00
C-10646	3590 - Ground Patches on 1st Floor @ PT	\$366.24	\$366.24			\$366.24	100%	\$0.00
C-10648	3588 - Ground Hollow Patches on Ground Floor @ PT	\$366.24	\$366.24			\$366.24	100%	\$0.00
C-10649	3587 - Grind Hollow Areas on Ground Floor @ PT/DT	\$598.20	\$598.20			\$598.20	100%	\$0.00
C-10928	2165 - Premium Time Sat. 8/25/01	\$549.35	\$549.35			\$549.35	100%	\$0.00
C-11369	3540 - Ground Hollow Areas @ PT	\$198.03	\$198.03			\$198.03	100%	\$0.00
C-11370	3541 - Ground/Polished Hollow Areas @ PT	\$381.15	\$381.15			\$381.15	100%	\$0.00
C-11371	3545 - Drilled Holes/Ground Hollow Areas - 7th Fl @ PT	\$768.60	\$768.60			\$768.60	100%	\$0.00
C-11372	3549 - Drilled Holes, Ground Patches & Filled @ PT	\$768.60	\$768.60			\$768.60	100%	\$0.00
C-11373	3550 - 'Ground/Polished Hollow Areas - Low Fls. @ PT	\$564.27	\$564.27			\$564.27	100%	\$0.00
C-11374	3524 - 'Installed Terrazzo Patches - 12th Floor @ PT	\$387.45	\$387.45			\$387.45	100%	\$0.00

Trade Payment Breakdown

General Contractor:
PROJECT NAME:
General Contractor Number:
Job Site Number:

Trataros Construction Inc.
3900 Merritt Ave.
Bronx, NY 10466
98106

Application Number: 28
Application Date: 26-Feb-03
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A	B	C	D	E	F	G	H	I
Quantity	Description Of Work	Scheduled Value	From Previous Requisitions	Work Completed This Period	Materials Presently Stored	Total Completed & Stored To Date	% Completed	Balance To Finish
	Premium Time							Retainage 0.0%
C-11375	3517 - Patching Done @ Hollow Areas @ PT	\$387.45	\$387.45	\$387.45		\$387.45	100%	\$0.00
C-11376	3522 - Worked on 12th Floor Hollow Areas @ PT	\$387.45	\$387.45	\$387.45		\$387.45	100%	\$0.00
C-11377	3520 - Filled Hollow Areas- Upper Floors @ PT	\$387.45	\$387.45	\$387.45		\$387.45	100%	\$0.00
C-11378	3519 - Patching Done to Hollow Areas @ PT	\$570.57	\$570.57	\$570.57		\$570.57	100%	\$0.00
C-11379	3538 - Grinding Done - Hollow Areas @ PT	\$198.03	\$198.03	\$198.03		\$198.03	100%	\$0.00
C-11380	3536 - Worked @Hollow Areas, Caulking @ PT	\$387.45	\$387.45	\$387.45		\$387.45	100%	\$0.00
C-11381	3534 - Repaired/Ground Hollow Areas Fl. 3-12 @ PT	\$387.45	\$387.45	\$387.45		\$387.45	100%	\$0.00
C-11382	3532 - Repairs to Hollow Areas - Fl. 3-12 @ PT	\$387.45	\$387.45	\$387.45		\$387.45	100%	\$0.00
C-11400	3526 - Grinding of Hollow Areas - 12th Fl. @ PT	\$381.15	\$381.15	\$381.15		\$381.15	100%	\$0.00
C-11641	0984 - Come Back to 3rd Fl. Sat. 8/4 & Sun 8/5/01	\$1,191.45	\$1,191.45	\$1,191.45		\$1,191.45	100%	\$0.00
C-11642	0893 - Premium Time 8/12/02- 8/18/01	\$6,143.75	\$6,143.75	\$6,143.75		\$6,143.75	100%	\$0.00
C-11653	2541 - Premium Time 7/2/01 (Mon. Night)	\$272.06	\$272.06	\$272.06		\$272.06	100%	\$0.00
C-11654	2542 - Premium Time 7/3/01 (Tues. Night)	\$219.74	\$219.74	\$219.74		\$219.74	100%	\$0.00
C-11655	2543 - Premium Time 7/5/01 (Thurs. Night)	\$429.16	\$429.16	\$429.16		\$429.16	100%	\$0.00
C-11656	2544 - Premium Time 7/6/01 (Fri. Night)	\$376.84	\$376.84	\$376.84		\$376.84	100%	\$0.00
C-11657	2545 - Premium Time - Sat 7/7/01	\$1,685.67	\$1,685.67	\$1,685.67		\$1,685.67	100%	\$0.00
C-11681	3000 - Premium Time - 8/13/01- 8/17/01	\$747.39	\$747.39	\$747.39		\$747.39	100%	\$0.00
C-11662	3001 - Lost Premium Time - 8/15/01(No Power)	\$427.08	\$427.08	\$427.08		\$427.08	100%	\$0.00
C-11663	3002 - Fabricate/Grind Steps in Shop Sat & Sun	\$2,162.09	\$2,162.09	\$2,162.09		\$2,162.09	100%	\$0.00
C-11673	2178 - Ground Patches Sat. 1/26 & Sun 1/27	\$1,066.17	\$1,066.17	\$1,066.17		\$1,066.17	100%	\$0.00
C-11677	2177 - Reinstalled Terr.due to Underlay. @ DT	\$312.27	\$312.27	\$312.27		\$312.27	100%	\$0.00
880	Work in Shop on Steps Sat. 8/4/02 (Ltr 10/2/01)	\$585.48	\$585.48	\$585.48		\$585.48	100%	\$0.00
881	Work in Shop on Steps Sun. 8/5/02 (Ltr 10/2/01)	\$1,055.67	\$1,055.67	\$1,055.67		\$1,055.67	100%	\$0.00
882	Work in Shop on Steps Sat. 8/11/02 (Ltr 10/2/01)	\$585.48	\$585.48	\$585.48		\$585.48	100%	\$0.00
883	Work in Shop on Steps Sun. 8/12/02 (Ltr 10/2/01)	\$1,055.67	\$1,055.67	\$1,055.67		\$1,055.67	100%	\$0.00
Subtotal - Premium Time		\$31,291.96	\$31,291.96	\$0.00		\$31,291.96	100%	\$0.00
Extra Work (Straight Time Only)								
C-10554	#3135 - Latex Membrane w/Mesh on B1 & B2	\$4,198.89	\$4,198.89	\$4,198.89		\$4,198.89	100%	\$0.00
C-10578	#2174 - Chopped Out Hollow Conflow/Filled w/Cement	\$863.67	\$863.67	\$863.67		\$863.67	100%	\$0.00
C-10580	#2172 - Removed Terrazzo & Chipped out Conflow	\$805.01	\$805.01	\$805.01		\$805.01	100%	\$0.00
C-10606	#3577 - Filled in Hollow Areas w/Epoxy on Ground Floor	\$570.62	\$570.62	\$570.62		\$570.62	100%	\$0.00
C-10608	#3569 - Filled in Hollow Areas on Ground Floor	\$1,080.26	\$1,080.26	\$1,080.26		\$1,080.26	100%	\$0.00
C-10625	#3511 - Grinded Hollow Area Patches Sat Night	\$1,066.03	\$1,066.03	\$1,066.03		\$1,066.03	100%	\$0.00
C-10626	#3507 - Grinded Hollow Area Patches Sat Night	\$1,636.66	\$1,636.66	\$1,636.66		\$1,636.66	100%	\$0.00
C-10627	#3505 - Grinded Hollow Area Patches	\$1,066.03	\$1,066.03	\$1,066.03		\$1,066.03	100%	\$0.00
C-10628	#3503 - Grinded Hollow Area Patches	\$1,066.03	\$1,066.03	\$1,066.03		\$1,066.03	100%	\$0.00
C-10631	#3501 - Installed Epoxy Terrazzo - 2nd Floor	\$1,127.02	\$1,127.02	\$1,127.02		\$1,127.02	100%	\$0.00
C-10635	#3579 - Drilled Holes in Hollow Areas on Ground Floor	\$1,080.26	\$1,080.26	\$1,080.26		\$1,080.26	100%	\$0.00
			98106					

Trade Payment Breakdown
 General Contractor:
 PROJECT NAME:
 General Contractor Number:
 Job Site Number:

Trataros Construction Inc.
 Baruch College
 98105

G.M. Crocetti, Inc.
 3900 Merritt Ave.
 Bronx, NY 10466

Application Number:
 Application Date:
 Period To:
 Project Number:

28
 26-Feb-03
 1/31/03

A	B	C	D	E	F	G	H	I
Quantity	Description Of Work	Scheduled Value	From Previous Requisitions	Work Completed This Period	Materials Presently Stored	Total Completed & Stored To Date	%	Balance To Finish
								Retainage 0.0%
Extra Work (Straight Time Only)								
C-10636 #3584	- Repaired Hollow Areas on Ground Floor	\$2,127.83	\$2,127.83			\$2,127.83	100%	\$0.00
C-10637 #3583	- Repaired Hollow Areas on Ground Floor	\$1,080.26	\$1,080.26			\$1,080.26	100%	\$0.00
C-10638 #3582	- Repaired Hollow Areas on Ground Floor	\$1,080.26	\$1,080.26			\$1,080.26	100%	\$0.00
C-10639 #3581	- Repaired Hollow Areas on Ground Floor	\$1,080.26	\$1,080.26			\$1,080.26	100%	\$0.00
C-10640 #3580	- Drilled Holes in Hollow Areas on Ground Floor	\$1,080.26	\$1,080.26			\$1,080.26	100%	\$0.00
C-10641 #3578	- Filled in Cracks with Epoxy on Ground Floor	\$570.62	\$570.62			\$570.62	100%	\$0.00
C-10642 #3594	- Polish & Seal Patches	\$1,019.28	\$1,019.28			\$1,019.28	100%	\$0.00
C-10644 #3592	- Grinding Done on Patches - 1st Floor	\$1,019.28	\$1,019.28			\$1,019.28	100%	\$0.00
C-10645 #3591	- Polish New Floor @ Sports Lobby	\$2,085.31	\$2,085.31			\$2,085.31	100%	\$0.00
C-10646 #3590	- Grinding Done on Patches - 1st Floor	\$1,019.28	\$1,019.28			\$1,019.28	100%	\$0.00
C-10647 #3589	- Grinding Done on Floor in Sports Lobby	\$2,085.31	\$2,085.31			\$2,085.31	100%	\$0.00
C-10648 #3588	- Grinding Done on Hollow Patches on Ground Flo	\$1,019.28	\$1,019.28			\$1,019.28	100%	\$0.00
C-10649 #3587	- Grinding & Polishing Hollow Areas - Ground Floor	\$1,066.03	\$1,066.03			\$1,066.03	100%	\$0.00
C-10650 #3586	- Ground New Floor @ Sports Lobby	\$2,085.31	\$2,085.31			\$2,085.31	100%	\$0.00
C-10929 #2153	- Filled in Areas @ Elevators	\$1,365.39	\$1,365.39			\$1,365.39	100%	\$0.00
C-10930 #2154	- Filled in Areas @ Elevators	\$962.31	\$962.31			\$962.31	100%	\$0.00
C-10931 #2155	- Chop Out Underlay/Fill w/Cement	\$722.66	\$722.66			\$722.66	100%	\$0.00
C-10932 #2156	- Filled in Areas @ Elevators	\$1,014.95	\$1,014.95			\$1,014.95	100%	\$0.00
C-10933 #2157	- Filled in Areas @ Staircase	\$1,212.86	\$1,212.86			\$1,212.86	100%	\$0.00
C-10934 #2151	- Fill in Various Areas	\$755.33	\$755.33			\$755.33	100%	\$0.00
C-10935 #2164	- Lost Time - School Orientation 8/24/02	\$1,234.54	\$1,234.54			\$1,234.54	100%	\$0.00
C-10936 #2163	- Patch Terrazzo @ Bookstore	\$846.64	\$846.64			\$846.64	100%	\$0.00
C-10994 #2101	- Remove/Reinstall Underlayment	\$2,243.91	\$2,243.91			\$2,243.91	100%	\$0.00
C-10995 #2106	- Fill in Areas with Underlayment	\$1,541.62	\$1,541.62			\$1,541.62	100%	\$0.00
C-10996 #2107	- Fill in Areas with Underlayment	\$1,033.42	\$1,033.42			\$1,033.42	100%	\$0.00
C-10997 #2115	- Chop Out Underlay/Fill w/Cement	\$2,722.89	\$2,722.89			\$2,722.89	100%	\$0.00
C-10998 #2124	- Installed New Terrazzo (Loose Underlay)	\$2,498.25	\$2,498.25			\$2,498.25	100%	\$0.00
C-10999 #2132	- Filled in Areas @ Elevators	\$1,408.78	\$1,408.78			\$1,408.78	100%	\$0.00
C-11000 #1702	- Remove/Reinstall Underlayment	\$1,543.06	\$1,543.06			\$1,543.06	100%	\$0.00
C-11001 #2103	- Remove/Reinstall Underlayment	\$2,207.20	\$2,207.20			\$2,207.20	100%	\$0.00
C-11002 #2104	- Filled in Areas @ Elevators	\$1,080.26	\$1,080.26			\$1,080.26	100%	\$0.00
C-11003 #2105	- Filled in Areas @ Elevators	\$1,033.42	\$1,033.42			\$1,033.42	100%	\$0.00
C-11004 #2109	- Filled in Areas @ Elevators	\$458.30	\$458.30			\$458.30	100%	\$0.00
C-11005 #2112	- Fill in Areas with Underlayment	\$1,033.42	\$1,033.42			\$1,033.42	100%	\$0.00
C-11006 #2113	- Fill in Areas with Flex Membrane	\$590.53	\$590.53			\$590.53	100%	\$0.00
C-11007 #2126	- Fill in Areas with Underlayment	\$1,509.78	\$1,509.78			\$1,509.78	100%	\$0.00
C-11008 #2127	- Ground New Terrazzo (Replaced Old)	\$1,080.26	\$1,080.26			\$1,080.26	100%	\$0.00
C-11009 #2128	- Ground New Terrazzo (Replaced Old)	\$1,080.26	\$1,080.26			\$1,080.26	100%	\$0.00
C-11010 #2129	- Ground New Terrazzo (Replaced Old)	\$1,080.26	\$1,080.26			\$1,080.26	100%	\$0.00
C-11011 #2130	- Polished New Terrazzo (Replaced Old)	\$509.64	\$509.64			\$509.64	100%	\$0.00
C-11012 #2131	- Cleaned/Sealed New Terrazzo	\$364.03	\$364.03			\$364.03	100%	\$0.00
C-11013 #2133	- Filled in Areas @ Elevators	\$690.10	\$690.10			\$690.10	100%	\$0.00

Trade Payment Breakdown

General Contractor:
PROJECT NAME:
General Contractor Number:
Job Site Number:

Trataros Construction Inc.
Baruch College
98106

Application Number:
Application Date:
Period To:
Project Number:

28
26-Feb-03
1/31/03

A	B	C	D	E	F	G	H	I
Quantity	Description Of Work	Scheduled Value	Work Completed From Previous Requisitions	This Period	Materials Presently Stored	Total Completed & Stored To Date	Balance To Finish	Retainage 0.0%
Extra Work								
C-11030	#3010 - Ground Terrazzo Floor Where Wall Removed	\$456.87	\$456.87			\$456.87	\$0.00	\$0.00
C-11262	#2166 - Filled Theater Lobby w/Hydraulic Cement	\$2,224.34	\$2,224.34			\$2,224.34	\$0.00	\$0.00
C-11263	#2167 - Fill in Bridge by Sealing Area	\$1,793.12	\$1,793.12			\$1,793.12	\$0.00	\$0.00
C-11298	#2162 - Epoxy-Sand Mix @ Escalators	\$733.48	\$733.48			\$733.48	\$0.00	\$0.00
C-11299	#2161 - Epoxy-Sand Mix @ Revolving Doors	\$1,559.59	\$1,559.59			\$1,559.59	\$0.00	\$0.00
C-11300	#2159 - Fill Hallway w/Epoxy-Sand Mix	\$1,474.29	\$1,474.29			\$1,474.29	\$0.00	\$0.00
C-11351	#3585 - Repaired Hollow Areas on Ground Floor	\$1,171.96	\$1,171.96			\$1,171.96	\$0.00	\$0.00
C-11369	#3540 - Grinding Done in Hollow Areas	\$556.39	\$556.39			\$556.39	\$0.00	\$0.00
C-11370	#3541 - Grinding Done in Hollow Areas	\$1,066.03	\$1,066.03			\$1,066.03	\$0.00	\$0.00
C-11371	#3545 -Grinding Done in Hollow Areas - 7th Floor & Lower	\$2,146.30	\$2,146.30			\$2,146.30	\$0.00	\$0.00
C-11372	#3549 - Drilled Holes Ground Patches & Filled Hollow Are	\$2,146.30	\$2,146.30			\$2,146.30	\$0.00	\$0.00
C-11373	#3550 - Grinding & Polishing Hollow Areas -Lower Floors	\$1,575.67	\$1,575.67			\$1,575.67	\$0.00	\$0.00
C-11374	#3524 - Installed Terrazzo on Patches on 12th Floor	\$1,080.26	\$1,080.26			\$1,080.26	\$0.00	\$0.00
C-11375	#3517 - Patching Done to Hollow Areas on Upper Floors	\$1,080.26	\$1,080.26			\$1,080.26	\$0.00	\$0.00
C-11376	#3522 - Worked on 12th Floor Hollow Areas	\$1,080.26	\$1,080.26			\$1,080.26	\$0.00	\$0.00
C-11377	#3520 - Filled Holes on Upper Floors w/Hollow Areas	\$1,080.26	\$1,080.26			\$1,080.26	\$0.00	\$0.00
C-11378	#3519 - Patching & Grinding done to Hollow Areas	\$1,589.90	\$1,589.90			\$1,589.90	\$0.00	\$0.00
C-11379	#3538 - Grinding Done in Hollow Areas	\$556.39	\$556.39			\$556.39	\$0.00	\$0.00
C-11380	#3536 - Worked on Hollow Areas and Caulking on B-2	\$1,080.26	\$1,080.26			\$1,080.26	\$0.00	\$0.00
C-11381	#3534 - Repairing & Grinding done to Hollow Areas	\$1,080.26	\$1,080.26			\$1,080.26	\$0.00	\$0.00
C-11382	#3532 - Repairing & Grinding done to Hollow Areas	\$1,080.26	\$1,080.26			\$1,080.26	\$0.00	\$0.00
C-11388	#3509 - Work performed on B-2 and 13-14th Floors	\$1,080.26	\$1,080.26			\$1,080.26	\$0.00	\$0.00
C-11398	#3537 - Polished Landing Off Sports Lobby	\$1,066.03	\$1,066.03			\$1,066.03	\$0.00	\$0.00
C-11399	#3539 - Polished/Sealed Landing Off Sports Lobby	\$1,066.03	\$1,066.03			\$1,066.03	\$0.00	\$0.00
C-11400	#3526 - Grinding Hollow Patches on 12th Floor	\$1,066.03	\$1,066.03			\$1,066.03	\$0.00	\$0.00
C-11641	#884- Comeback 3rd Fl.-Finished Left Out Pcs	\$1,192.27	\$1,192.27			\$1,192.27	\$0.00	\$0.00
C-11651	#1701-Removed Terrazzo/Loose Underlay.	\$1,543.06	\$1,543.06			\$1,543.06	\$0.00	\$0.00
C-11652	#2533 - 'Stopped Work Due to Inspection (Directed by Pa	\$595.80	\$595.80			\$595.80	\$0.00	\$0.00
C-11658	#2108 - Removed Loose/Installed New Underlay.	\$1,033.42	\$1,033.42			\$1,033.42	\$0.00	\$0.00
C-11659	#2111 - Removed Loose/Installed New Underlay	\$1,164.48	\$1,164.48			\$1,164.48	\$0.00	\$0.00
C-11660	#2114 - Removed Loose/Installed New Underlay	\$590.53	\$590.53			\$590.53	\$0.00	\$0.00
C-11662	3001 - Lost Time - 8/15/01(No Power)	\$1,191.61	\$1,191.61			\$1,191.61	\$0.00	\$0.00
C-11664	#3563 - Chopped Out Terrazzo -Concrete Saturated w/Oil	\$771.62	\$771.62			\$771.62	\$0.00	\$0.00
C-11665	#3564 - Installed Strips/Epoxy 2nd Floor @ Chopped Are	\$1,080.26	\$1,080.26			\$1,080.26	\$0.00	\$0.00
C-11666	#3565 - Chopped Out Terrazzo -Concrete Saturated w/Oil	\$1,080.26	\$1,080.26			\$1,080.26	\$0.00	\$0.00
C-11667	#3566 - Installed Strips/Epoxy in Two Chopped Areas	\$1,080.26	\$1,080.26			\$1,080.26	\$0.00	\$0.00
C-11668	#3567 - Drilled Holes in Loose Areas & Filled w/Epoxy	\$1,929.32	\$1,929.32			\$1,929.32	\$0.00	\$0.00
C-11669	#3571 - Installed Epoxy Patches on Floors 3 - 7	\$1,080.26	\$1,080.26			\$1,080.26	\$0.00	\$0.00
C-11670	#3572 - Installed/Grinded Epoxy Patches on Floors 8 - 13	\$1,080.26	\$1,080.26			\$1,080.26	\$0.00	\$0.00

Page 5

Trade Payment Breakdown

General Contractor:

PROJECT NAME:

General Contractor Number:

Job Site Number:

Trataros Construction Inc.
3900 Merritt Ave.
Bronx, NY 10466

Application Number:

Application Date:

Period To:

Project Number:

28

26-Feb-03

1/31/03

A	B	C	D	E	F	G	H	I
Quantity	Description Of Work	Scheduled Value	Work Completed From Previous Requisitions	Work Completed This Period	Materials Presently Stored	Total Completed & Stored To Date	Balance To Finish	Retainage 0.0%
Extra Work								
C-11671 #2175 - Filled In Areas @ Sports Lounge		\$633.65	\$633.65			\$633.65	\$0.00	\$0.00
C-11673 #2178 - Grinding done on Terrazzo Patches		\$2,588.94	\$2,588.94			\$2,588.94	\$0.00	\$0.00
C-11677 #2177 - Reinstalled Terrazzo @ Sports Lounge (Underlay)		\$1,022.67	\$1,022.67			\$1,022.67	\$0.00	\$0.00
#3905 - Installed New Floor @ 1 & 2 Floors		\$4,213.15	\$4,213.15			\$4,213.15	\$0.00	\$0.00
#2158 - Filled In Areas Around Posts @ Escalators		\$1,351.18	\$1,351.18			\$1,351.18	\$0.00	\$0.00
#2160 - Filled In Areas By Door to Bookstore		\$846.64	\$846.64			\$846.64	\$0.00	\$0.00
Subtotal - Extra Work		\$123,763.56	\$123,763.56	\$0.00		\$123,763.56	\$0.00	\$0.00
Total - Pending Premium Time & Extra Work		\$155,055.52	\$155,055.52	\$0.00		\$155,055.52	\$0.00	\$0.00
Additional Claims								
Balance Due on Escalation Claim		\$26,000.00	\$26,000.00			\$26,000.00	\$0.00	\$0.00
Claim for Lost Productivity		\$369,000.00	\$369,000.00			\$369,000.00	\$0.00	\$0.00
9/4/02 - Overhead Costs - 10% on All Premium Time		\$17,779.12	\$17,779.12			\$17,779.12	\$0.00	\$0.00
Subtotal - Escalation/Delay Claims		\$412,779.12	\$412,779.12	\$0.00		\$412,779.12	\$0.00	\$0.00
Grand Total - Pending Claims		\$567,834.64	\$567,834.64	\$0.00		\$567,834.64	\$0.00	\$0.00
Total Contract & Extras		\$3,998,352.51	\$3,842,568.93	\$155,783.58	\$0.00	\$3,998,352.51	\$0.00	\$0.00

Note: the above schedule of values is for requisition purposes only. These values are not to be used for Adds and / or Deducts.

EXHIBIT

B

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 -----
5 TRAVELERS CASUALTY AND SURETY COMPANY as
6 Administrator for RELIANCE INSURANCE
7 COMPANY,

8 Plaintiff,

9 -against-

10 DORMITORY AUTHORITY-STATE OF NEW YORK, TDX
11 CONSTRUCTION CORP. and KOHN PEDERSEN FOX
12 ASSOCIATES, P.C.,

13 Defendants.

14 Case No. 08-CV-6915 (DLC)

15 (CAPTION CONTINUED)
16 -----

17 May 21, 2008

18 10:13 a.m.

19 DEPOSITION of CHARLES BARTLETT,
20 taken by Plaintiff, pursuant to Notice,
21 held at the offices of DORMITORY AUTHORITY
22 OF THE STATE OF NEW YORK, One Pennsylvania
23 Plaza, New York, New York before Wayne
24 Hock, a Notary Public of the State of New
25 York.

DORMITORY AUTHORITY OF THE STATE OF NEW
YORK and TDX CONSTRUCTION CORP.,

Third-Party Plaintiffs,

-against-

TRATAROS CONSTRUCTION, INC.,

Third-Party Defendant.

TRATAROS CONSTRUCTION, INC.,
Fourth-Party Plaintiff,

-against-

CAROLINA CASUALTY INSURANCE COMPANY;
BARTEC INDUSTRIES INC.; DAYTON SUPERIOR
SPECIALTY CHEMICAL CORP. a/k/a DAYTON
SUPERIOR CORPORATION; SPECIALTY
CONSTRUCTION BRANDS, INC. t/a TEC; KEMPER
CASUALTY INSURANCE COMPANY d/b/a KEMPER
INSURANCE COMPANY; GREAT AMERICAN
INSURANCE COMPANY; NATIONAL UNION FIRE
INSURANCE COMPANY OF PITTSBURGH, PA.;
UNITED STATES FIRE INSURANCE COMPANY;
NORTH AMERICAN SPECIALTY INSURANCE
COMPANY; ALLIED WORLD ASSURANCE COMPANY
(U.S.) INC. f/k/a COMMERCIAL UNDERWRITERS
INSURANCE COMPANY; ZURICH AMERICAN
INSURANCE COMPANY d/b/a ZURICH INSURANCE
COMPANY; OHIO CASUALTY INSURANCE COMPANY
d/b/a OHIO CASUALTY GROUP; HARLEYSVILLE
MUTUAL INSURANCE COMPANY (a/k/a
HARLEYSVILLE INSURANCE COMPANY,); JOHN
DOES 1-20 and XYZ CORPS. 1-19,
Fourth-Party Defendants.

KOHN PEDERSEN FOX ASSOCIATES, P.C.

Third-Party Plaintiff,

-against-

WEIDLINGER ASSOCIATES CONSULTING
ENGINEERS, P.C., CASTRO-BLANCO PISCIONERI
AND ASSOCIATES, ARCHITECTS, P.C.,
ARQUITECTONICA NEW YORK, P.C., COSENTINI
ASSOCIATES, INC., CERMAK, PETERKA
PETERSEN, INC., JORDAN PANEL SYSTEMS
CORP., TRATAROS CONSTRUCTION, INC. and LBL
SKYSYSTEMS (U.S.A.), INC.,

Third-Party Defendants.

1 C. Bartlett

2 understanding is they did direct Crocetti
3 through Trataros to work overtime. That
4 may have been a function of the fact that
5 Crocetti didn't provide sufficient
6 staffing.

7 Q. Now, Mr. Bartlett, since you
8 weren't there at that project time when
9 the work was actually ongoing, where does
10 your understanding come from?

11 A. Meeting minutes and
12 correspondence as well as claim-related
13 documents.

14 MS. SMITH: As well as?

15 THE WITNESS: Claim-related
16 documents.

17 Q. What are you referring to when
18 you speak to claim-related documents?

19 A. Correspondence from Crocetti to
20 Trataros to the Authority relative to
21 Crocetti's claim and correspondence from
22 Trataros to the Authority relative to
23 Crocetti's claim.

24 Q. When you refer to Crocetti's
25 claim, can you be more specific for me.

C. Bartlett

A. Yes.

Crocetti submitted a claim to Trataros alleging damages associated with productivity as well as labor and material escalation and extended supervision. It was -- they alleged they were delayed in starting the project for a year and, for that, labor and material escalated and they were not able to find sufficient staffing to do the work.

Q. And that claim was submitted to DASNY?

A. Ultimately, yes. First to Trataros. Trataros then applied their markups and submitted to DASNY.

Q. Do you know at what point in time that was done?

A. I know some of the dates. The original letter from Crocetti to Trataros was September 27, 2001. I believe Trataros submitted its letter to DASNY in October of 2001. I believe those are roughly the time frames.

Q. And was that claim addressed by

C. Bartlett

DASNY?

A. Could you be more specific in terms of addressed?

Q. What did DASNY do with the claim?

A. We agreed to pay the escalation at that time and afforded \$150,000 for that purpose. We agreed that we would negotiate the claims as it went to productivity at the end of the project. And initially we said we wanted to address Trataros' claim in its entirety. Ultimately we negotiated claim settlements or attempted to negotiate claim settlements directly with some of the subcontractors.

Q. Was that done with Crocetti?

A. Yes.

Q. And what did you negotiate with them?

A. I believe the overall claim settlement was on the order of \$250,000. When the \$150,000 advance payment is taken away from that, the proposed final

C. Bartlett

settlement was roughly a hundred thousand dollars.

Q. Was that settlement effectuated?

A. No.

Q. Why not?

A. Because concurrent -- at the time we had negotiated the claim or were in the process of negotiating the claim, we became aware that the flooring was failing throughout the project. I would describe it as a catastrophic failure.

Q. Let me take you back to something you said just a short while ago.

DASNY had sent \$150,000 to Crocetti to pay them an initial portion of this claim.

What specifically was the \$150,000 for?

A. Labor and material escalation.

Q. And why was that -- how did DASNY determine that that would be paid?

A. We accepted Crocetti's statement that they had been delayed in starting for one year. They provided backup as to

C. Bartlett

MS. BONACCI: I guess we are at
our breaking point for today. Thank
you very much.

(TIME NOTED: 6:01 p.m.)

----- (Signature of witness)

Subscribed and sworn to

before me this -----

day of -----,

2008.

CERTIFICATION BY REPORTER

I, Wayne Hock, a Notary Public of the State of New York, do hereby certify:

That the testimony in the within proceeding was held before me at the aforesaid time and place;

That said witness was duly sworn before the commencement of the testimony, and that the testimony was taken stenographically by me, then transcribed under my supervision, and that the within transcript is a true record of the testimony of said witness.

I further certify that I am not related to any of the parties to this action by blood or marriage, that I am not interested directly or indirectly in the matter in controversy, nor am I in the employ of any of the counsel.

IN WITNESS WHEREOF, I have hereunto set my hand this 27th day of May, 2008.

Wayne Hock

VERITEXT REPORTING COMPANY

EXHIBIT C

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 -----
5 TRAVELERS CASUALTY AND SURETY COMPANY as
6 Administrator for RELIANCE INSURANCE
7 COMPANY,

8 Plaintiff,

9 -against-

10 DORMITORY AUTHORITY-STATE OF NEW YORK, TDX
11 CONSTRUCTION CORP. and KOHN PEDERSEN FOX
12 ASSOCIATES, P.C.,

13 Defendants.

14 Case No. 08-CV-6915 (DLC)

15 (CAPTION CONTINUED)

16 -----
17 May 22, 2008

18 10:13 a.m.

19 CONTINUED DEPOSITION of CHARLES
20 BARTLETT, taken by Plaintiff, pursuant to
21 Notice, held at the offices of DORMITORY
22 AUTHORITY OF THE STATE OF NEW YORK, One
23 Pennsylvania Plaza, New York, New York
24 before Wayne Hock, a Notary Public of the
25 State of New York.

DORMITORY AUTHORITY OF THE STATE OF NEW
YORK and TDX CONSTRUCTION CORP.,

Third-Party Plaintiffs,

-against-

TRATAROS CONSTRUCTION, INC.,

Third-Party Defendant.

TRATAROS CONSTRUCTION, INC.,
Fourth-Party Plaintiff,

-against-

CAROLINA CASUALTY INSURANCE COMPANY;
BARTEC INDUSTRIES INC.; DAYTON SUPERIOR
SPECIALTY CHEMICAL CORP. a/k/a DAYTON
SUPERIOR CORPORATION; SPECIALTY
CONSTRUCTION BRANDS, INC. t/a TEC; KEMPER
CASUALTY INSURANCE COMPANY d/b/a KEMPER
INSURANCE COMPANY; GREAT AMERICAN
INSURANCE COMPANY; NATIONAL UNION FIRE
INSURANCE COMPANY OF PITTSBURGH, PA.;
UNITED STATES FIRE INSURANCE COMPANY;
NORTH AMERICAN SPECIALTY INSURANCE
COMPANY; ALLIED WORLD ASSURANCE COMPANY
(U.S.) INC. f/k/a COMMERCIAL UNDERWRITERS
INSURANCE COMPANY; ZURICH AMERICAN
INSURANCE COMPANY d/b/a ZURICH INSURANCE
COMPANY; OHIO CASUALTY INSURANCE COMPANY
d/b/a OHIO CASUALTY GROUP; HARLEYSVILLE
MUTUAL INSURANCE COMPANY (a/k/a
HARLEYSVILLE INSURANCE COMPANY,); JOHN
DOES 1-20 and XYZ CORPS. 1-19,
Fourth-Party Defendants.

KOHN PEDERSEN FOX ASSOCIATES, P.C.

Third-Party Plaintiff,

-against-

WEIDLINGER ASSOCIATES CONSULTING
ENGINEERS, P.C., CASTRO-BLANCO PISCIONERI
AND ASSOCIATES, ARCHITECTS, P.C.,
ARQUITECTONICA NEW YORK, P.C., COSENTINI
ASSOCIATES, INC., CERMAK, PETERKA
PETERSEN, INC., JORDAN PANEL SYSTEMS
CORP., TRATAROS CONSTRUCTION, INC. and LBL
SKYSYSTEMS (U.S.A.), INC.,

Third-Party Defendants.

1 C. Bartlett

2 payment was stopped. My recollection is
3 at some point we stopped paying on those
4 contracts.

5 Q. When you say, "we," you mean the
6 cost control unit or you mean the people
7 who were disbursing payments?

8 A. I mean DASNY.

9 Q. Your work evaluating claims and
10 change orders did not stop?

11 A. Well, I'm just trying to think.
12 I'm not sure. I know we continued to
13 negotiate with Crocetti, for instance,
14 with the intention of settling that matter
15 until it became clear that there was
16 basically a catastrophic failure of
17 flooring all over the building. I'm not
18 sure I can answer your question.

19 Q. When did that become clear to
20 you?

21 A. As I recollect, sometime in
22 2003. But again I'm not certain of those
23 dates.

24 Q. When you started at the cost
25 control unit, were you given any kind of

561

C. Bartlett

MR. SHAPIRO: Fair enough.

(TIME NOTED: 5:03 p.m.)

----- (Signature of witness)

Subscribed and sworn to

before me this -----

day of -----,

2008.

VERITEXT REPORTING COMPANY

212-267-6868

516-608-2400

CERTIFICATION BY REPORTER

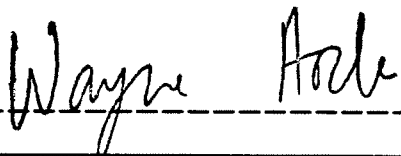
I, Wayne Hock, a Notary Public of the State of New York, do hereby certify:

That the testimony in the within proceeding was held before me at the aforesaid time and place;

That said witness was duly sworn before the commencement of the testimony, and that the testimony was taken stenographically by me, then transcribed under my supervision, and that the within transcript is a true record of the testimony of said witness.

I further certify that I am not related to any of the parties to this action by blood or marriage, that I am not interested directly or indirectly in the matter in controversy, nor am I in the employ of any of the counsel.

IN WITNESS WHEREOF, I have hereunto set my hand this 27th day of May, 2008.



VERITEXT REPORTING COMPANY

EXHIBIT D

DORMITORY AUTHORITY - STATE OF NEW YORK**515 Broadway, Albany, New York 12207-2964****CHANGE ORDER**

TO: Contractor: <u>Trataros Construction, Inc.</u>	Change Order No: <u>GC2-114</u>
Street: <u>664 64th Street</u>	JD Edwards Change Request No: _____
City State Zip: <u>Brooklyn, NY 11220</u>	JD Edwards Contract No: <u>61506</u>
Original Contract Date _____	JD Edwards Project No: <u>12777099999</u>
Original Contract Amount: <u>\$24,140,000</u>	Total Approved Change Order: _____
Current Contract Amount: _____	

You are hereby directed to perform all labor and to provide all materials necessary to carry out the work described below:

Project Name and Location: **Baruch College-Site "B"**

Description of Work: Provide all labor, equipment and material necessary to expedite the completion of the terrazzo work in the food servery area. DASNY has authorized a revision of the floor fill material from fill concrete (as per contract) to hydraulic cement.

Full consideration for this change order shall be an **INCREASE** of the original contract amount by:

Dollars

Labor = \$ 3,425.00
 Material = \$ 11,575.00
 Total = \$ 15,000.00

Increase of the original schedule by 0 days. In accepting and executing this change order the contractor, its heirs, executors administrators, successors, and assigns hereby release and forever discharge the Dormitory Authority of the State of New York, its successors, and assigns from any and all actions, causes of action, claims and demands whatsoever in law or in equity which the contractor ever had, now has or may have against the Dormitory Authority of the State of New York in any way arising out of this change.

Recommended by:

Accepted by:

CONSTRUCTION MANAGER OR ARCHITECT

CONTRACTOR

TDX Construction Corp.

Trataros Construction, Inc.

Name

Name

By: [Signature] 8/22/01
 Date

By: [Signature] 8/22/01
 Date

INSTITUTION (WHERE REQUIRED)

Approved by: DORMITORY AUTHORITY

Name

By: _____ Date

Title

Date

Dormitory Authority Use Only:

ALT BAC BND CLA CLO COM COR DE DO EMR FLD INF INS OFS PRG

TDX CONSTRUCTION CORPORATION

BARUCH COLLEGE - SITE B

CHANGE ORDER CHECKLIST

CHANGE ORDER NO: GC2-114

IN ORDER OF APPEARANCE:

- [X] ORIGINAL SIGNED CHANGE ORDER:
- [X] CHANGE ORDER COST REVIEW CERTIFICATION:
- [X] CHANGE ORDER MEMORANDUM:
- [X] DETAILED MEMORANDUM OF JUSTIFICATION AND NEGOTIATION:
- [X] COPY OF TDX LETTER OF DIRECTIVE DATED: July 17, 2001
- [X] COPY OF TDX CHANGE ORDER ESTIMATE:
- [X] COPY OF CONTRACTORS PROPOSAL DATED July 19, 2001 IN THE AMOUNT OF \$15,000.00
- [X] REFERENCE DOCUMENT :
- [X] WAGE RATES: Approved

CHANGE ORDER COST REVIEW CERTIFICATION

PROJECT: BARUCH COLLEGE - SITE "B"

ND# 1293

CR#

CONTRACTOR FILING CLAIM: **Trataros Construction, Inc.** COST:

CHANGE ORDER NO:GC2-114

ORIGINAL CONTRACT NO: 61506

DESCRIPTION OF CHANGE ORDER WORK:

Provide all labor, equipment and material necessary for the completion of the terrazzo work in the food servery area, DASNY has authorized a revision of the floor fill material from fill concrete (as per contract) to hydraulic cement.

This is to certify that the following applicable reviews have been made relative to the contractor's cost calculation for the above change order.

YES NO

- X 1. Unit rates from construction applied (where applicable).
- X 2. Wage rates correct / Man hours reasonable.
- X 3. Material prices verified and reasonable.
- X 4. Rental rates verified and reasonable.
- X 5. Percentage mark-ups applied properly as per General Conditions.

Based on the above reviews, the following recommendation is hereby made to the Dormitory Authority regarding the disposition of said Change Order.

- X 1. Change Order should be approved.
2. Change Order should be deferred for approval subject to the following modifications:

This cost review completed by:

Dale Gargiulo

Representing the: Architect: _____ Construction Manager: X Other:

Signature of reviewing person: 

Acknowledge by Dormitory Authority:

Date: _____ Disposition Approved: _____ Deferred:

FDX CONSTRUCTION CORPORATION

MEMORANDUM

DATE: August 14, 2001
TO: Nick D'Ambrosio
FROM: John J. McCullough
JOB: Baruch College - Site B
RE: GC2-114, ND#1293

.....

This memorandum is in reply to contractor's comment inserted at the bottom front of this page of change orders.

We have considered the contractor's comment along with the included statement. Any time impact to the contract or any cost associated with a extension of time to the contract is not acknowledged and has not been determined at this time. Appropriate consideration will be made at a future date, in accordance with contractual obligations for any impact to the contract and cost associated with same.

TDX CONSTRUCTION CORPORATION

CHANGE ORDER MEMORANDUM

DATE: August 14, 2001
TO: Nick D'Ambrosio
FROM: John J. McCullough
JOB: Baruch College - Site B
RE: GC2-114, ND#1293

.....

Attached you will find one original of the above referenced change order signed by the contractor and one copy of the required back up.

This change order in the amount of \$ 15,000.00 is for the cost of providing all labor, equipment and materials for the complete installation of work indicated .

In order to expedite the construction of the terrazzo floor in the food servery area, DASNY has authorized a revision of the floor fill material from fill concrete (as per contract) to hydraulic cement. This will cut down on the curing time of the substrate prior to the installation of the epoxy terrazzo flooring.

TDX has reviewed this change order and finds it to be fair and reasonable and recommends its approval. It is our recommendation that the cost should be appropriated as a field X.

TDX CONSTRUCTION CORPORATION

Baruch College - Site B

CHANGE ORDER MEMORANDUM OF JUSTIFICATION AND NEGOTIATION

CHANGE ORDER NO: GC2-114

CONTRACTOR: Trataros Construction, Inc.

DESCRIPTION OF CHANGE:

Provide all labor, equipment and material necessary to expedite the terrazzo flooring by substituting the contract concrete floor fill with hydraulic cement.

REASON FOR CHANGE:

The hydraulic cement will cure quicker than the concrete floor fill so that the terrazzo floor can be installed immediately.

RECORD OF NEGOTIATIONS:

The contractor submitted a proposal dated 7/9/01 in the amount of 15,000.00.
TDX estimate agreed with this amount.

TDX DIRECTIVE

Dated: July 17, 2001

Change Order No.:GC2-114



TDX CONSTRUCTION CORPORATION

Baruch College Field Office 137 East 25th Street, 6th Floor, New York, NY 10010

212 679 0031

212 679 0037 fax

www.tdxconstruction.com

July 17, 2001

Trataros Construction Corporation
55 Lexington Avenue
New York, NY 10010

Attn: John Clarke

RE: Baruch College - Site "B"
Contract No. 16 - G.C. #2
ND# 1293

Gentlemen:

In order to expedite the completion of the terrazzo work in the food
servery area, the Dormitory Authority has authorized a revision of the floor
fill material from fill concrete (as per contract) to hydraulic cement.

Please proceed with the above and transmit your proposal to our
office showing how this work will affect your contract.

Very truly yours,
TDX Construction Corporation

John J. McCullough, P.E.
Project Manager

JJM/amo

Cc: N. D'Ambrosio
R. Leu
J. R. Jones
T. Mockler
ND# 1293/2.3B

Trataros / 167-01 ND# 1293

TDX CHANGE ORDER ESTIMATE

Change Order No.: GC2-114



TDX CONSTRUCTION CORPORATION

WORKSHEET SUMMARY

Project Baruch College "Site B"
 Subject Terrazzo floor in food servery area

Date 15-Aug-01

LABOR TO HAND MIX AND PLACE

Trade Labor	Labor Hours	Rates Per Hour	Straight time paid
Mechanic	80	\$ 56.07	\$4,485.60
Foreman	14	\$ 58.38	\$817.32
Total			\$5,302.92

Materials

Material	Quantity	Unit	Unit Cost	Total Cost
Hydraulic cement	500	bag	\$ 28.00	\$14,000.00
Commercial sand	1000	bag	\$ 3.92	\$3,920.00
Total				\$17,920.00

sub total \$23,223.00

Credits

Credits	total	Rate	Cost
Materials	-24 cy	\$ 95.00	\$ (2,280.00)
labor	-40 hrs	\$ 233.50	\$ (9,340.00)
Total			\$ (11,620.00)

Total cost of material and labor	\$11,600.00
---	--------------------

Contractors Sub-Total (round down)	\$11,600.00
Contractors Overhead & Profit 20%	\$2,320.00
Contractors Total	\$13,920.00
Overhead & Profit-On Sub Contractor for Contractor 10%, 5% and 3%	\$1,080.00
Contractors Total	\$1,080.00
Total Cost of Change Order	\$15,000.00

Contractor's Proposal

Dated: July 19, 2001

Change Order No.: GC2-114

Trataros Construction, Inc.

Baruch Academic Complex
New York, New York 10010

Phone: (646)935-0101
Fax: (646)935-0757

July 19, 2001

TDX Construction Corporation
137 East 25th Street

New York, New York 10010

Attn: John McCullough

Project: BARUCH ACADEMIC COMPLEX
Re: ND #1293

Project #: DA #6500 1802 2178
Job #: Contract #16 / GC2

Dear Mr. McCullough:

We are in receipt of above referenced notice of direction regarding revision of material in food court servery area. Please issue a formal change order in the amount of \$15,000.00 as per TDX/Trataros verbal agreement.

Thank you.

Sincerely,



Athena Curis
Project Manager

CC: JFC/WB/RR/TCI Office - files
Encl. ND #1293

Reference Documents

Change Order No.:GC2-114

A-104 Ground Floor

Copy of the letter of directive dated July 17, 2001



TDX CONSTRUCTION CORPORATION

Baruch College Field Office 137 East 25th Street, 6th Floor, New York, NY 10010

212 679 0031

212 679 0037 FAX

www.tdxconstruction.com

July 17, 2001

Agreed to 15,000 w/ TDX by Roman Co. to Concrete

Trataros Construction Corporation
55 Lexington Avenue
New York, NY 10010

Attn: John Clarke

RE: Baruch College - Site "B"
Contract No. 16 - G.C. #2
ND# 1293

Gentlemen:

In order to expedite the completion of the terrazzo work in the food server area, the Dormitory Authority has authorized a revision of the floor fill material from fill concrete (as per contract) to hydraulic cement.

Please proceed with the above and transmit your proposal to our office showing how this work will affect your contract.

Very truly yours,
TDX Construction Corporation

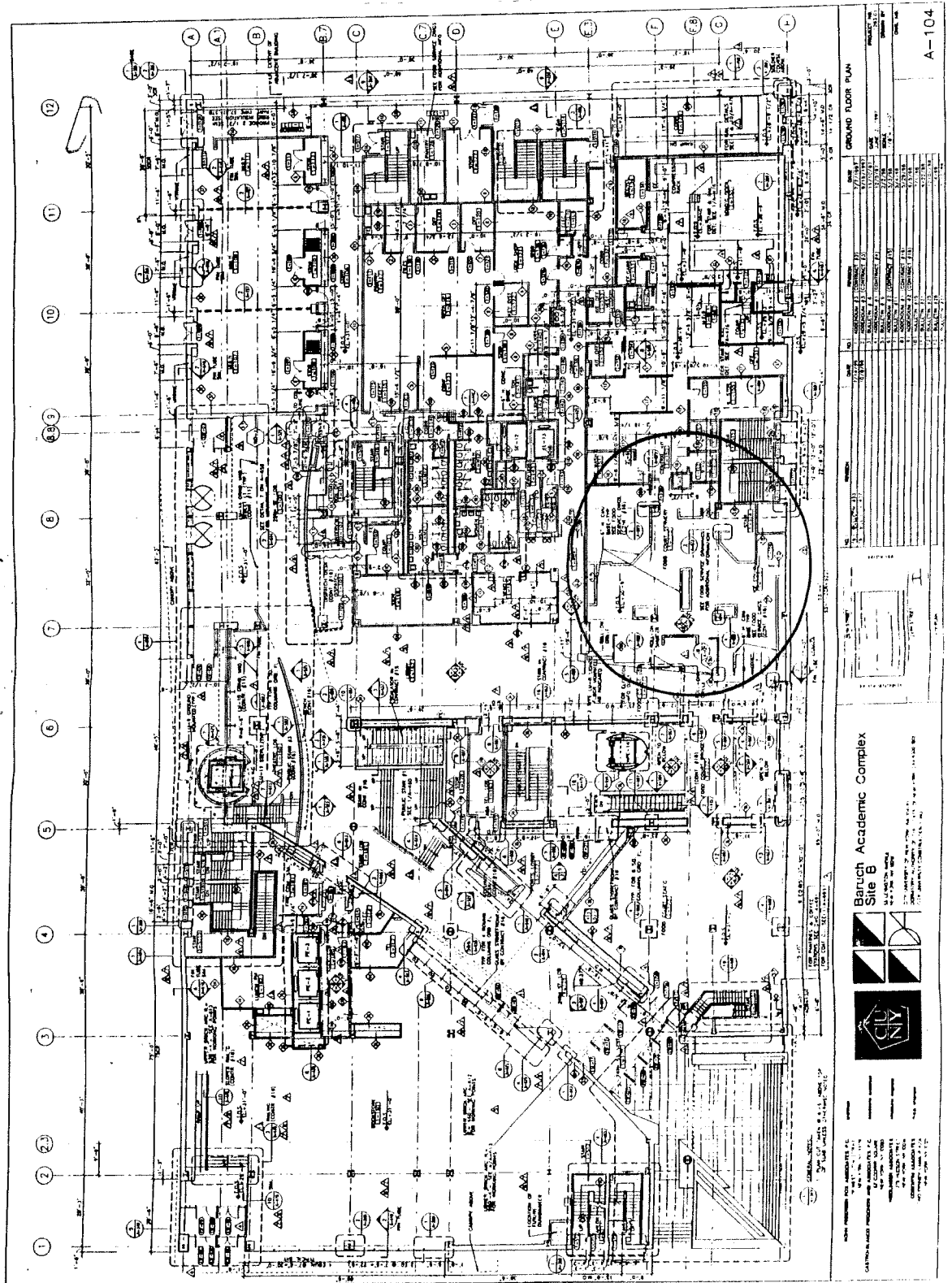
John J. McCullough, P.E.
Project Manager

JJM/amo

Cc: N. D'Ambrosio
R. Leu
J. R. Jones
T. Mockler
ND# 1293/2.3B

Let Reference 7-17-01 ND# 1293

*2-17-01
w/ R/R*



Approved Wage Rates

Change Order No.:GC2-114

06/08/2001 10:26 FAX 518 257 3468

DASNY 3rd FLOOR

APPROVED

EVL Jan 9/18/01

- - -

COST CONTROL UNIT
DORMITORY AUTHORITY

G.M. CROCETTI, INCORPORATED

TERRAZZO UNION - LOCAL #3
JULY 1, 2000 TO DECEMBER 31, 2000

WRAP UP

	FOREMAN	FOREMAN PREMIUM	MECHANIC	PREMIUM 1H	PREMIUM 2H	FOREMAN HELPER	FOREMAN PREMIUM	HELPER	PREM. 1H	PREM. 2H
RATE	34.53 ✓	17.26	32.48 ✓	16.24	32.48	32.92 ✓	16.46	31.17 ✓	15.58	31.17
SALE PRINC										
DAYL ALLOW.	1.43 ✓	N.M.	1.43 ✓	N.A.	N.A.	1.43 ✓	N.A.	1.43 ✓	N.A.	N.A.
VACATION	2.00 ✓	1.00	2.00 ✓	1.00	2.00	2.00 ✓	1.00	2.00 ✓	1.00	2.00
TAXABLE WAGES	37.96 ✓	18.26	35.91 ✓	7.24	34.48	36.35 ✓	7.46	34.60 ✓	16.58	31.17
TOTAL 12.5%	4.75 ✓	2.28	4.49 ✓	2.16	4.31	4.54 ✓	2.18	4.33 ✓	2.07	4.15
UNION BENEFITS										
WELFARE	5.45 ✓	5.45	5.45 ✓	5.45	5.45	5.45 ✓	5.45	5.45 ✓	5.45	5.45
VERSION	4.15 ✓	2.08	4.15 ✓	2.08	4.15	4.15 ✓	2.08	4.15 ✓	2.08	4.15
SUPPLEMENT	2.00 ✓	N.A.	2.00 ✓	N.A.	N.A.	2.00 ✓	N.A.	2.00 ✓	N.A.	N.A.
ANNUITY FUND	2.25 ✓	1.2	2.25 ✓	1.2	2.25	2.25 ✓	1.2	2.25 ✓	1.2	2.25
DEF'L PENSION	1.50 ✓	N.A.	1.50 ✓	N.A.	N.A.	1.50 ✓	N.A.	1.50 ✓	N.A.	N.A.
FL MASONRY INST	0.22 ✓	N.A.	0.22 ✓	N.A.	N.A.	0.22 ✓	N.A.	0.22 ✓	N.A.	N.A.
PROMOTION FUND	0.10 ✓	N.A.	0.10 ✓	N.A.	N.A.	0.10 ✓	N.A.	0.10 ✓	N.A.	N.A.
DEATH BENEFIT	1.96 X	1.06	1.84 X	0.92	1.84	1.88 X	0.94	1.78 X	0.89	1.78
EXPENDABLE TOOLS	4.05 X	2.08	3.88 X	1.90	3.80	3.87 X	1.94	3.65 X	1.83	3.65
TRUCK/MAT'L HANDLING	3.80 X	1.76	3.78 X	1.64	3.28	3.74 X	1.67	3.75 X	1.58	3.15
OSHA SAFETY EQUIP	2.36 X	1.20	2.21 X	1.11	2.21	2.26 X	1.13	2.13 X	1.07	2.13
SUPERVISION	2.01 X	1.11	1.89 X	0.95	1.89	1.93 X	0.97	1.83 X	0.92	1.83
TOTAL COSTING	\$58.30	36.40	\$56.07	\$4.57	63.66	\$56.50	34.94	\$54.60	\$3.59	61.21

EXHIBIT E

DORMITORY AUTHORITY - STATE OF NEW YORK
515 Broadway, Albany, New York 12207-2964

11775

CHANGE ORDER

TO: Contractor:	<u>Trataros Construction, Inc.</u>	Change Order No:	<u>GC2-202</u>
Street:	<u>664 64th Street</u>	JD Edwards Change Request No:	<u> </u>
City State Zip:	<u>Brooklyn, NY 11220</u>	JD Edwards Contract No:	<u>61506</u>
Original Contract Date	<u> </u>	JD Edwards Project No:	<u>12777099999</u>
Original Contract Amount:	<u>\$24,140,000</u>	Total Approved Change Order:	<u> </u>
Current Contract Amount:	<u> </u>		

You are hereby directed to perform all labor and to provide all materials necessary to carry out the work described below:

Project Name and Location: **Baruch College Site-"B"**

Description of Work: Provide all labor, equipment and material necessary to install hydraulic cement base in areas left out by the underlayment subcontractor. This was due to accelerating the work schedule in order to open the building on the college target date of August 27, 2001. This work was recorded on a time and material ticket basis.

Full consideration for this change order shall be an **INCREASE** of the original contract amount by:

Dollars

Labor = \$ 7,962.00
 Material = \$ 1,971.00
 Total = \$ 9,933.00

Increase of the Contract completion date by 0 days. In accepting and executing this change order the contractor, its heirs, executors administrators, successors, and assigns hereby release and forever discharge the Dormitory Authority of the State of New York, its successors, and assigns from any and all actions, causes of action, claims and demands whatsoever in law or in equity which the contractor ever had, now has or may have against the Dormitory Authority of the State of New York in any way arising out of this change.

Recommended by:

CONSTRUCTION MANAGER OR ARCHITECT

TDX Construction Corp.
 Name
 By: [Signature] Date 11/6/03

INSTITUTION (WHERE REQUIRED)

 Name

 Date

Accepted by:

CONTRACTOR

Trataros Construction, Inc.
 Name
 By: [Signature] Date 10/30/03

Approved by: **DORMITORY AUTHORITY**

By: Date

 Title

Dormitory Authority Use Only:

ALT BAC BND CLA CLO COM COR DE DO EMR FLD INF INS OFS PRG

[Signature]

TDX CONSTRUCTION CORPORATION

BARUCH COLLEGE - SITE B

CHANGE ORDER CHECKLIST

CHANGE ORDER NO: GC2-202

IN ORDER OF APPEARANCE:

- [X] ORIGINAL SIGNED CHANGE ORDER:
- [X] CHANGE ORDER COST REVIEW CERTIFICATION:
- [X] CHANGE ORDER MEMORANDUM:
- [X] DETAILED MEMORANDUM OF JUSTIFICATION AND NEGOTIATION:
- [X] COPY OF TDX LETTER OF DIRECTIVE DATED: 7/12/01
- [X] COPY OF TDX CHANGE ORDER ESTIMATE:
- [X] COPY OF CONTRACTORS PROPOSAL: N/A
- [X] REFERENCE DOCUMENTS:
- [X] WAGE RATES: APPROVED

**DORMITORY AUTHORITY STATE OF NEW YORK
CHANGE ORDER COST REVIEW CERTIFICATION**

PROJECT: BARUCH COLLEGE - SITE "B"

ND# 1775 CR#

CONTRACTOR FILING CLAIM: **Trataros Construction, Inc.**

COST: \$9,933.00

CHANGE ORDER NO: GC2-202

ORIGINAL CONTRACT NO: 61506

DESCRIPTION OF CHANGE ORDER WORK:

Provide all labor, equipment and material necessary to install hydraulic cement base in areas left out by the underlayment subcontractor. This was due to accelerating the work schedule in order to open the building on the college target date of August 27, 2001. This work was recorded on a time and material ticket basis.

This is to certify that the following applicable reviews have been made relative to the contractor's cost calculation for the above change order.

YES NO

- X 1. Unit rates from construction applied (where applicable) .
- X 2. Wage rates correct / Man hours reasonable.
- X 3. Material prices verified and reasonable.
- X 4. Rental rates verified and reasonable.
- X 5. Percentage mark-ups applied properly as per General Conditions.

Based on the above reviews, the following recommendation is hereby made to the Dormitory Authority regarding the disposition of said Change Order.

- X 1. Change Order should be approved.
2. Change Order should be deferred for approval subject to the following modifications:

This cost review completed by:

James Grundvig

Representing the: Architect: Construction Manager: X Other:

Signature of reviewing person: 

Acknowledge by Dormitory Authority:

Date: Disposition Approved: Deferred:

TDX CONSTRUCTION CORPORATION

MEMORANDUM

DATE: January 24, 2003
TO: Nick D'Ambrosio
FROM: Ray Leu
JOB: Baruch College - Site B
RE: GC2-202, ND #1775

.....

This memorandum is in reply to contractor's comment inserted at the bottom front of this page of change order.

We have considered the contractor's comment along with the included statement. Any time impact to the contract or any cost with an extension of time to the contract is not acknowledged and has not been determined at this time. Appropriate consideration will be made at a future date in accordance with contractual obligations for any time impact to the contract and cost associated with same.

TDX CONSTRUCTION CORPORATION

CHANGE ORDER MEMORANDUM

DATE: January 24, 2003
TO: Nick D'Ambrosio
FROM: Ray Leu
JOB: Baruch College - Site B
RE: GC2-202, ND #1775

.....

Attached you will find one original of the above referenced change order signed by the contractor and one copy of the required back up.

This change order in the amount of \$9,933.00 is for providing all labor, equipment and material necessary to install hydraulic cement base in areas left out by the underlayment subcontractor. This was due to accelerating the work schedule in order to open the building on the college target date of August 27, 2001. This work was recorded on a time and material ticket basis.

During the final push to open the building on time for the college fall semester, the flooring subcontractor installed quick-setting hydraulic cement in lieu of Conflow underlayment material. The Conflow product has to be placed in layers with lengthy periods ^{of} for time to cure. Since the work schedule had been increased to meet the opening target date, the hydraulic cement was placed in fill-in areas left out by the underlayment subcontractor. These areas predominantly encompassed fill-ins around the elevators.

TDX has reviewed this change order and finds it to be fair and reasonable and recommends its approval. It is our recommendation that the cost should be appropriated as a Field X.

TDX CONSTRUCTION CORPORATION

Baruch College - Site B

CHANGE ORDER MEMORANDUM OF JUSTIFICATION AND NEGOTIATION

CHANGE ORDER NO: GC2-202

CONTRACTOR: Trataros Construction, Inc.

DESCRIPTION OF CHANGE:

Provide all labor, equipment and material necessary to install hydraulic cement base in areas left out by the underlayment subcontractor. This was due to accelerating the work schedule in order to open the building on the college target date of August 27, 2001. This work was recorded on a time and material ticket basis.

REASON FOR CHANGE:

During the final push to open the building on time for the college fall semester, the flooring subcontractor installed quick-setting hydraulic cement in lieu of Conflow underlayment material. The Conflow product has to be placed in layers with lengthy periods for time to cure. Since the work schedule had been increased to meet the opening target date, the hydraulic cement was placed in fill-in areas left out by the underlayment subcontractor. These areas predominantly encompassed fill-ins around the elevators.

RECORD OF NEGOTIATIONS:

The Contractor submitted a proposal dated 1/24/03 in the amount total \$11,287.29.

TDX estimated the cost to be \$9,933.00.

The Contractor accepted the estimate.

TDX DIRECTIVE

Dated: 7/12/01

Change Order No.: GC2-202



TDX CONSTRUCTION CORPORATION

Baruch College Field Office 137 East 25th Street, 6th Floor, New York, NY 10010

212 679 0031

212 679 0037 FAX

www.tdxconstruction.com

July 12, 2001

Trataros Construction Inc.
55 Lexington Avenue
New York, NY 10010

Attn: John Clarke

RE: *Baruch College - Site "B"*
Contract No. 16 - G. C. #2
ND #1288 1775 *[Signature]*

Gentlemen:

You are hereby directed to repair the terrazzo base through out the building that was damaged by others.

Please proceed immediately and advise if there is any cost impact to your contract.

Very truly yours,
TDX Construction Corporation

[Signature]
John J. McCullough, P.E.
Project Manager

RL/kdl

Cc: N. D'Ambrosio
J. Barrera
T. Mockler
J. Jones, Jr.
ND #1288

Ltr Trataros ND#1288

Corporate Office 345 Seventh Avenue, New York, NY 10001

DASNY_TRAVELERS2 154916

TDX CHANGE ORDER ESTIMATE

Change Order No.: GC2-202


TDX CONSTRUCTION CORPORATION
PROJECT: BARUCH COLLEGE SITE 'B'
DATE: 1/20/03
SUBJECT: ND# 1775 -- GC2-202 (CROCETTI - T&M)
T&M TICKETS: TERRAZZO FLOORING

ITEM	QTY	UNIT	UN COST	TOTAL (\$)
I. Material	1	ls	\$ 1,516.00	\$ 1,516.00
II. Labor				
Mechanic Foreman	16	hr	\$ 67.37	\$ 1,077.92
General Foreman	7	hr	\$ 67.37	\$ 471.59
Mechanic	23	hr	\$ 61.84	\$ 1,422.32
Foreman Helper	7	hr	\$ 65.69	\$ 459.83
Finisher	37	hr	\$ 60.17	\$ 2,226.29
TOTAL BASE (I & II) =				\$ 7,173.95
OH&P	20%			\$ 1,434.79
III. PREMIUM TIME:				
General Foreman	7	hr	\$ 29.19	\$ 204.33
Mechanic	7	hr	\$ 29.19	\$ 204.33
Foreman Helper	7	hr	\$ 28.29	\$ 198.03
TOTAL (III) =				\$ 606.69
TOTAL (SUBCONTRACTOR) =				\$ 9,215.43
GC MARKUP 10,5,3% =				\$ 717.40
TOTAL =				\$ 9,933

I. MATERIAL

ITEM	QTY	UNIT	UN COST	TOTAL (\$)
Hydraulic Cem.	35	bag	\$ 25.00	\$ 875.00
Sand	150	bag	\$ 2.50	\$ 375.00
Latex Primer	3.5	gal	\$ 12.00	\$ 42.00
Epoxy	8	gal	\$ 28.00	\$ 224.00
196.5				
TOTAL (I) =			\$ 1,516.00	

TICKET	DATE	ITEM	QTY	UNIT	AMOUNT	TOTAL
2106	3/7/01	Hydraulic Cem.	12	bag	1	12
"	"	Sand	48	bag	1	48
2132	3/29/01	Hydraulic Cem.	5	bag	1	5
"	"	Sand	25	bag	1	25
"	"	Epoxy	3	gal	1	3
2166	10/25/01	Hydraulic Cem.	10	bag	1	10
"	"	Sand	40	bag	1	40
"	"	Latex Primer	2	gal	1	2
2167	10/26/01	Hydraulic Cem.	8	bag	1	8
"	"	Sand	37	bag	1	37
"	"	Latex Primer	1.5	gal	1	1.5
"	"	Epoxy	5	gal	1	5

II. LABOR

TICKET	DATE	M. FRMN	MECH.	GEN. FRMN	FINISHER	FINISHER
2104	3/1/01	7			7	
2105	3/2/01		7		7	
2106	3/7/01		7		7	
2107	3/8/01		7		7	
2109	3/12/01	2	2		2	
2132	3/26/01	7			7	
2167	10/26/01			7		7

TOTAL (II) =	16	23	7	37	7
---------------------	-----------	-----------	----------	-----------	----------

III. PREMIUM TIME

TICKET	DATE	GEN FRMN	MECH.	FRM HELPER
2166	10/25/01	7	7	7

TOTAL (III) =	7	7	7
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3960 Merritt Ave.
BRONX, NY 10466

Phone (718) 994-0900
Fax (718) 994-4505

WORK ORDER

2104

PROJECT NAME BARUCH COLLEGE		JOB NO. 98106	DATE 3/1/01
ADDRESS 55TH & LEXINGTON		PREPARED BY RAY TOPFEL	
DOOR/LEVEL 11TH	SPACE/AREA ELEVATOR AREA	FIELD/WORK ORDER	
VENDOR INVOICE TO TRATAROS CONSTRUCTION		ATTENTION	
DESCRIPTION OF WORK	DATE WORK PERFORMED 3/1/01	PX NO. (PENDING EXTRA)	
FILL IN AREAS AROUND ELEVATORS LEFT OUT BY UNDER-LAYMENT INSTALLER			

LABOR SUMMARY

CLASSIFICATION		NO. OF MEN	NO. OF HRS.	NO. OF DAYS	NO. OF WEEKS	NO. OF MONTHS	NO. OF YEARS
	GENERAL FOREMAN						
	MECHANIC FOREMAN						
	MECHANIC	1	7			7	
	FINISHER FOREMAN						
	FINISHER	1	7			7	
	MARBLE POLISHER FOREMAN (SHOP)						
	MARBLE POLISHER (SHOP)						
	TRUCK DRIVER						
	WAREHOUSE						
	FOREMAN HELPERS						

T = Tile M = Marble TR = Terrazzo E = Exterior

MATERIAL AND EQUIPMENT

[illegible]

"This acknowledgement is for time and material only, and is not an acknowledgement that the work involved is in fact a contract modification."

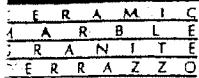
SALES TAX

separate work order daily for each job.
combine jobs/days.

authorized representative (sign)

(Plus)

representative



Phone (718) 994-0900
Fax (718) 994-4505

2105

PROJECT NAME PARUCH COLLEGE		JOB NO. 98106	DATE 3/2/01
ADDRESS 25TH & LEXINGTON		PREPARED BY RAY TOPFOLI	
FLOOR/LEVEL 11TH	SPACE/AREA ELEVATOR AREA	FIELD/WORK ORDER	
END INVOICE TO TRATARIOS CONSTRUCTION		ATTENTION	
DESCRIPTION OF WORK	DATE WORK PERFORMED 3/2/01	PX NO. (PENDING EXTRA)	
BILL IN AREAS AROUND ELEVATORS LEFT OUT BY UNDER-LAYMENT CONTRACTOR			

[illegible]

T = Tile M = Marble TR = Terrazzo E = Exterior

MATERIAL AND EQUIPMENT

[illegible]

• a separate work order daily for each job.
• combine jobs/days.

Authorized representative (sign) [Signature]

(Print)

Representative



3960 Merritt Ave.
BRONX, NY 10466

Phone (718) 994-0900
Fax (718) 994-4505

WORK ORDER

2106

PROJECT NAME BARUCH COLLEGE		JOB NO. 98106	DATE 3/7/01
ADDRESS 25TH E LEANINGTON		PREPARED BY RAY TOFFOLI	
ROOM/LEVEL 8TH	SPACE/AREA ELEVATOR AREA	FIELD/WORK ORDER	
INVOICE TO TRATAROS CONSTRUCTION, INC.		ATTENTION	
DESCRIPTION OF WORK	DATE WORK PERFORMED 3/7/01	PX NO. (PENDING EXTRA)	
FILL IN AREAS LEFT OUT BY UNDERLAYMENT INSTALLER			

LABOR SUMMARY

CLASSIFICATION	NO. OF HOURS	NO. OF DAYS	NO. OF WEEKS	NO. OF MONTHS	NO. OF YEARS
GENERAL FOREMAN	1.24				
MECHANIC FOREMAN	1.61				
MECHANIC					
FINISHER FOREMAN	1	7			
FINISHER	1	7			
MARBLE POLISHER FOREMAN (SHOP)					
MARBLE POLISHER (SHOP)					
TRUCK DRIVER					
WAREHOUSE					
FOREMAN HELPERS					

T = Tile M = Marble TR = Terrazzo E = Exterior

MATERIAL AND EQUIPMENT

12 BAGS	HYDRAULIC CEMENT		
48 "	SAND		
This acknowledgement is for time and material only, and is not an acknowledgement that the work involved is in fact a contract modification.			
		SALES TAX	

a separate work order daily for each job.
combine jobs/days.

Anthony M. M...
authorized representative (sign)

(Print)

representative



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BRONX, NY 10466

Phone (718) 994-0900
Fax (718) 994-4505

WORK ORDER

2107

PROJECT NAME BARUCH COLLEGE		JOB NO. 98106	DATE 3/8/01
ADDRESS 25TH E LEXINGTON		PREPARED BY RAY TOFFOLI	
OR/LEVEL 8TH	SPACE/AREA ELEVATOR AREA	FIELD/WORK ORDER	
D INVOICE TO TRATAROS CONSTRUCTION		ATTENTION	
DESCRIPTION OF WORK	DATE WORK PERFORMED 3/8/01	PX NO. (PENDING EXTRA)	
FILL IN AREAS LEFT OUT BY UNDERLAYMENT INSTALLER			

LABOR SUMMARY

CLASSIFICATION		NO.	NO.	NO.	NO.	NO.	NO.	NO.	NO.
		1	2	3	4	5	6	7	8
	GENERAL FOREMAN								
	MECHANIC FOREMAN								
	MECHANIC								
	FINISHER FOREMAN								
	FINISHER								
	MARBLE POLISHER FOREMAN (SHOP)								
	MARBLE POLISHER (SHOP)								
	TRUCK DRIVER								
	WAREHOUSE								
	FOREMAN HELPERS								

T = Tile M = Marble TR = Terrazzo E = Exterior

MATERIAL AND EQUIPMENT

SEE WORK ORDER # 2106

"This acknowledgement is for time
and material only, and is not an
acknowledgement that the work
involved is in fact a contract
modification."

SALES TAX

"This acknowledgement is for time and material only, and is not an acknowledgement that the work involved is in fact a contract modification."

: a separate work order daily for each job.
combine jobs/days.

or authorized representative (sign)

(Print)

Representative



Phone (718) 994-0900
Fax (718) 994-4505

2109

PROJECT NAME BARKH COLLEGE		JOB NO. 98106	DATE 3/12/01
DRESS 25TH & LEXINGTON		PREPARED BY RAY TOFFOLI	
FLOOR/LEVEL 8TH	SPACE/AREA ELEVATOR AREA	FIELD/WORK ORDER	
AD INVOICE TO TRATAROS CONSTRUCTION		ATTENTION	
DESCRIPTION OF WORK	DATE WORK PERFORMED 3/12/01	PX NO. (PENDING EXTRA)	
INSTALL UNDERLAYMENT @ ELEVATORS			

LABOR SUMMARY

LABOR SUMMARY									
DATE	ITEM	UNIT	QUANTITY	UNIT PRICE	TOTAL PRICE	DATE	ITEM	UNIT	QUANTITY
	GENERAL FOREMAN								
	MECHANIC FOREMAN								
	MECHANIC		1	2					2
	FINISHER FOREMAN		1	2					2
	FINISHER								2
	MARBLE POLISHER FOREMAN (SHOP)		1	2					2
	MARBLE POLISHER (SHOP)								
	TRUCK DRIVER								
	WAREHOUSE								
	FOREMAN HELPERS								

T = Tile M = Marble TR = Terrazzo E = Exterior

T = Tile M = Marble TR = Terrazzo E = Exterior

MATERIAL AND EQUIPMENT

[illegible]

"This acknowledgement is for time and material only, and is not an acknowledgement that the work involved is in fact a contract modification."

a separate work order daily for each job.
Combine jobs/days. *1*

authorized representative (sign)

(Print)

representative



3960 Merritt Ave.
BRONX, NY 10466

Phone (718) 994-0900
Fax (718) 994-4505

WORK ORDER

2132

CT NAME BARUCH COLLEGE	JOB NO. 98106	DATE 3/29/01
ESS 55 LEXINGTON AVE.	PREPARED BY RAY TOFFOLI	
R/LEVEL 11	SPACE/AREA LOBBY	FIELD/WORK ORDER
INVOICE TO RATARS CONSTRUCTION	ATTENTION	
RIPTION OF WORK	DATE WORK PERFORMED 3/26/01	PX NO. (PENDING EXTRA)

FILL IN AREAS AROUND ELEVATORS LEFT OUT BY UNDER-LAYMENT INSTALLER

LABOR SUMMARY

CLASSIFICATION	NO. OF MEN	NO. OF HOURS	NO. OF DAYS	NO. OF WEEKS	NO. OF MONTHS	NO. OF YEARS
GENERAL FOREMAN						
MECHANIC FOREMAN	1	7			7	
MECHANIC						
FINISHER FOREMAN						
FINISHER	1	7			7	
MARBLE POLISHER FOREMAN (SHOP)						
MARBLE POLISHER (SHOP)						
TRUCK DRIVER						
WAREHOUSE						
FOREMAN HELPERS						

T = Tile M = Marble TR = Terrazzo E = Exterior

MATERIAL AND EQUIPMENT

3 GALS	EPOXY	28.00	84.00
3 BAGS	MAROCEN HYDRAULIC CEMENT	25.00	125.00
5 "	SAND	25.00	125.00
<p>"This acknowledgement is for time and material only, and is not an acknowledgement that the work involved is in fact a contract modification."</p>			
		SALES TAX	

See a separate work order daily for each job.
Do not combine jobs/days.

Per authorized representative (signature)

(Print)

Representative

Phone (718) 994-0900
Fax (718) 994-4505

20 Bag 5 2167

PROJECT NAME BARUCH COLLEGE		JOB NO.	DATE Oct. 25, 2001
ADDRESS		PREPARED BY E. Sweeney	
FLOOR/LEVEL MAIN FLOOR	SPACE/AREA	FIELD/WORK ORDER	
SEND INVOICE TO		ATTENTION	
DESCRIPTION OF WORK	DATE WORK PERFORMED 10.26.01	PX NO. (PENDING EXTRA)	

No ND #
Required

ID	NAME	DATE	TIME	CLASSIFICATION	NO. OF HRS.	REG. HOURS	TOTAL HOURS	OVERTIME	TOTAL HOURS		
									DAY	NIGHT	OT
				GENERAL FOREMAN			7				
	1051			MECHANIC FOREMAN							
				MECHANIC							
				FINISHER FOREMAN							
				FINISHER							
				MARBLE POLISHER FOREMAN (SHOP)							
				MARBLE POLISHER (SHOP)							
				TRUCK DRIVER							
				WAREHOUSE							
	1052			FOREMAN HELPERS			7				

MATERIAL AND EQUIPMENT

QUANTITY	DESCRIPTION	UNIT PRICE	EXTENSION
	fill in bridge by securing area		
	5 gal. of epoxy		
	8 bags of hydraulic cement		
	37 bags of sand		
	1 1/2 gal. of latex primer		
		SALES TAX	
		TOTAL	

Prepare a separate work order daily for each job.
Do not combine jobs/days.

Customer authorized representative (sign)

(Print)

G.M.C. Representative

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DASNY_TRAVELERS2 154926

Phone (718) 994-0900
Fax (718) 994-4505

2166

Bags

PROJECT NAME BARUCH COLLEGE		JOB NO.	DATE Oct. 25, 2001
ADDRESS		PREPARED BY E. Sweeney	
FLOOR/LEVEL MAIN FLOOR	SPACE/AREA	FIELD/WORK ORDER	
SEND INVOICE TO TRATARUS		ATTENTION	
DESCRIPTION OF WORK	DATE WORK PERFORMED 10-25-01	PX NO. (PENDING EXTRA)	No NO# Required

				CLASSIFICATION	NO. OF MPS	REG. HOURS	PRGM. HOURS	ESTIMED TIME	TOTAL HOURS		
DATE	TIME	NO.	DATE						TIME	NO.	
		1		GENERAL FOREMAN			7				
				MECHANIC FOREMAN							
		1		MECHANIC			7				
				FINISHER FOREMAN							
				FINISHER							
				MARBLE POLISHER FOREMAN (SHOP)							
				MARBLE POLISHER (SHOP)							
				TRUCK DRIVER							
				WAREHOUSE							
		1		FOREMAN HELPERS			7				

MATERIAL AND EQUIPMENT

QUANTITY	DESCRIPTION	UNIT PRICE	EXPENSE
	fill concrete lobby with		
	hydraulic cement		
	10 bags of hydraulic		
	40 bags of sand		
	2 gal latex primer		
		SALES TAX	
		TOTAL	

Prepare a separate work order daily for each job.
Do not combine jobs/days.

Customer authorized representative (sign)

(Print)

M C. Representative

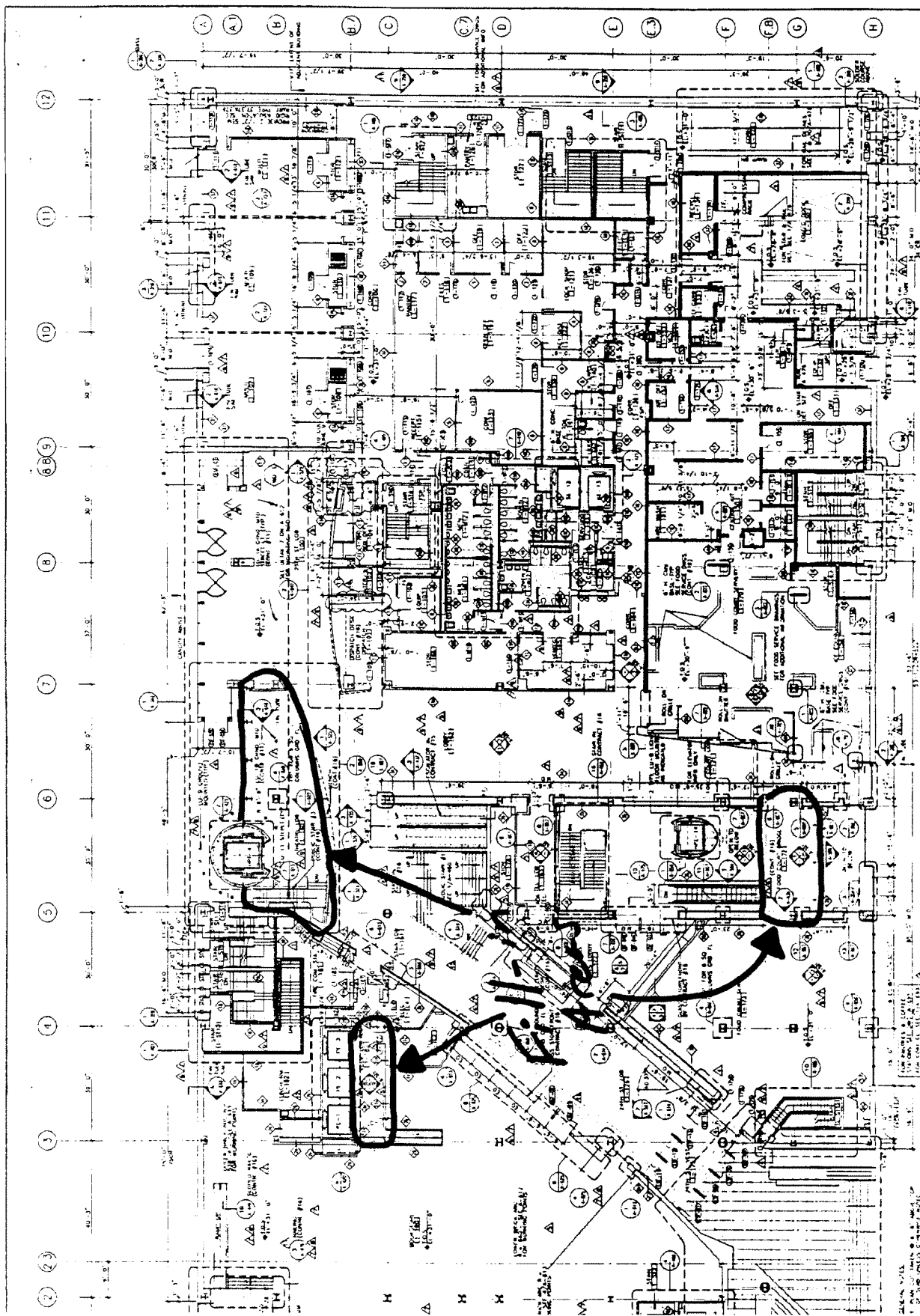
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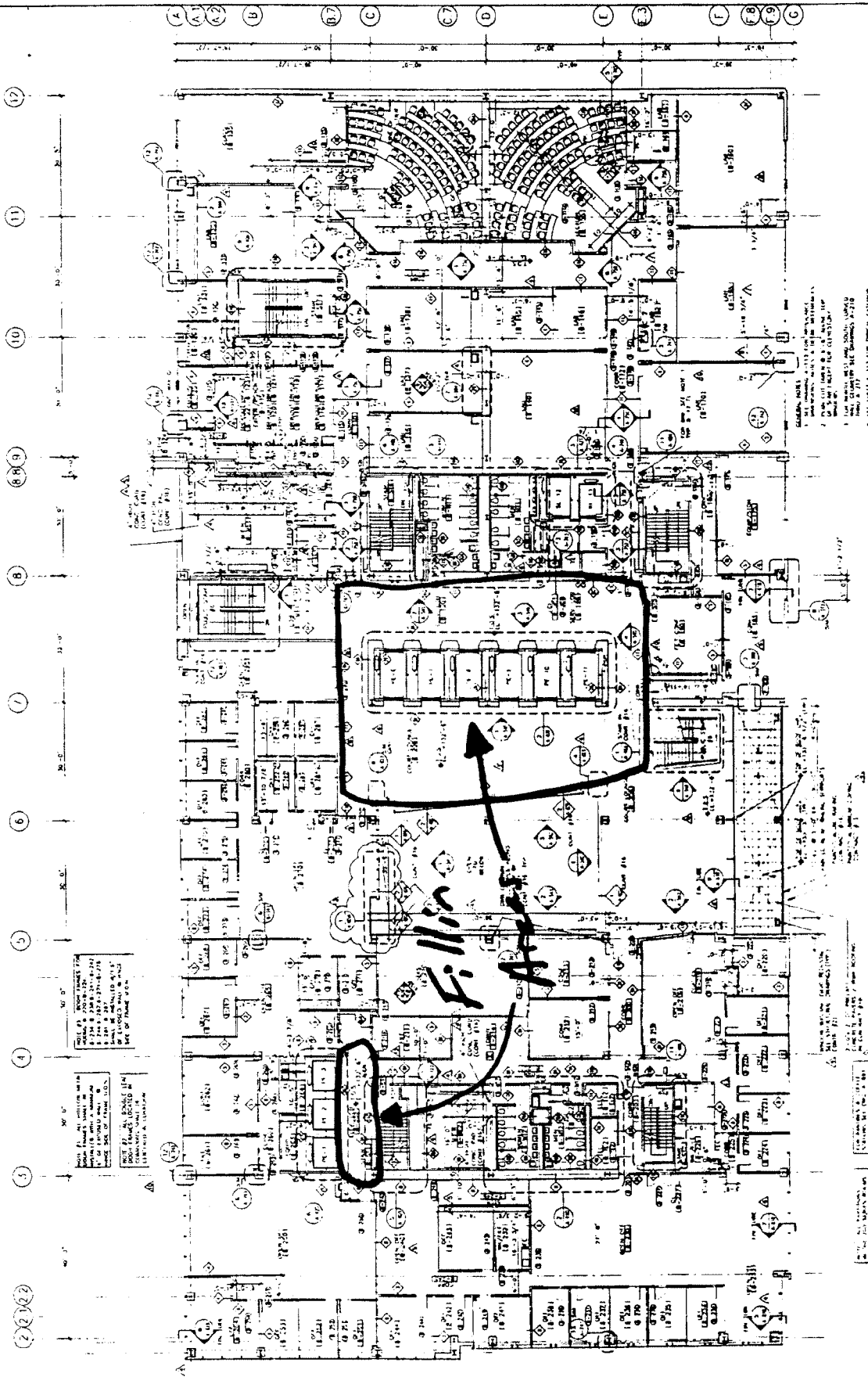
Reference Documents

Change Order No.:GC2-169

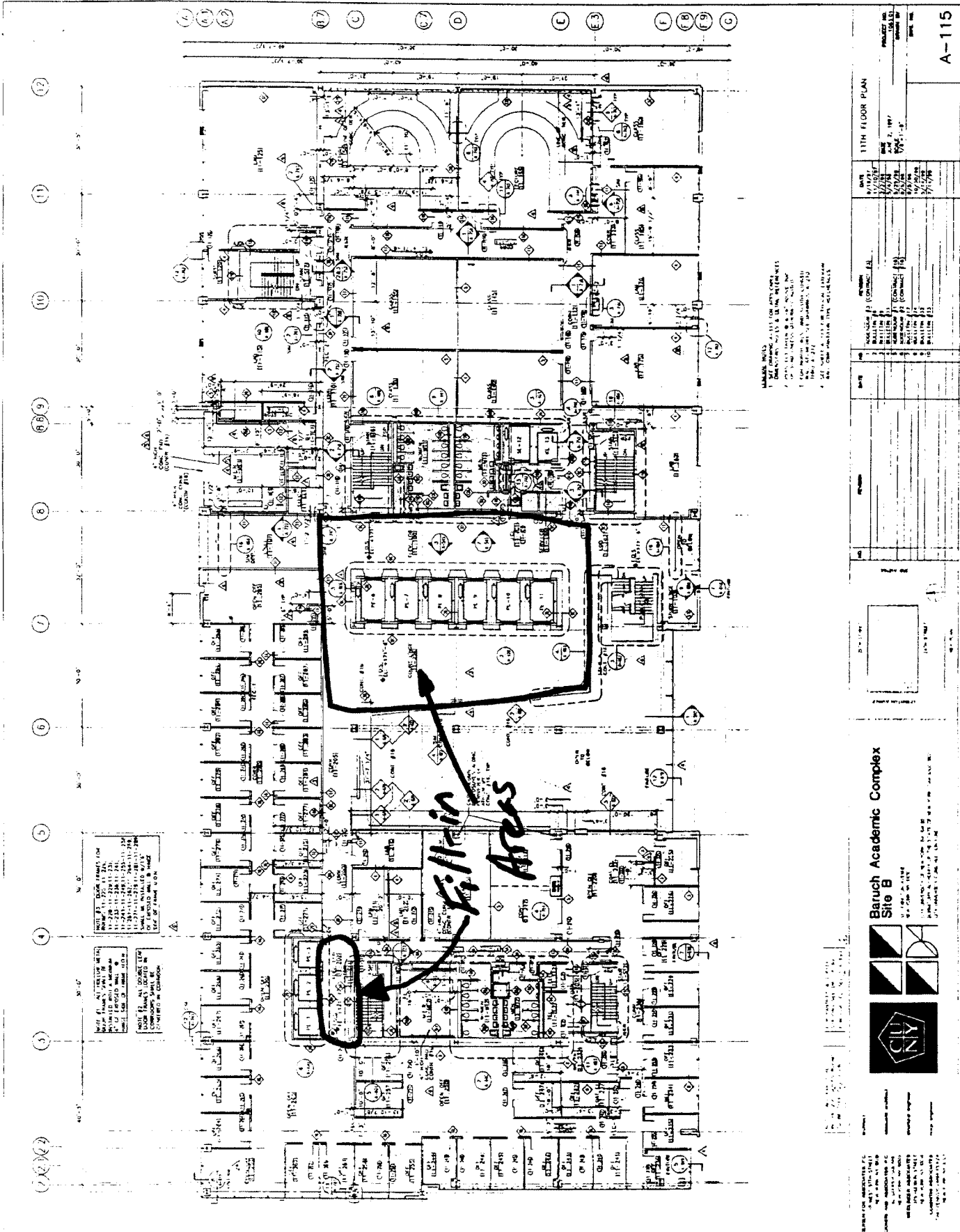
DRAWINGS:

A-104 GROUND FLOOR PLAN
A-112 8TH FLOOR PLAN
A-115 11TH FLOOR PLAN





8TH FLOOR PLAN DATE: 7/1/97 DRAWN BY: [Signature] CHECKED BY: [Signature]		A-112
PROJECT NO.: 100-100000 SHEET NO.: 100-100000		
REVISIONS		
NO.	DATE	DESCRIPTION
1	7/1/97	ISSUED FOR PERMIT
2	7/1/97	ISSUED FOR PERMIT
3	7/1/97	ISSUED FOR PERMIT
4	7/1/97	ISSUED FOR PERMIT
5	7/1/97	ISSUED FOR PERMIT
6	7/1/97	ISSUED FOR PERMIT
7	7/1/97	ISSUED FOR PERMIT
8	7/1/97	ISSUED FOR PERMIT
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96	7/1/97	ISSUED FOR PERMIT
97	7/1/97	ISSUED FOR PERMIT
98	7/1/97	ISSUED FOR PERMIT
99	7/1/97	ISSUED FOR PERMIT
100	7/1/97	ISSUED FOR PERMIT



Approved Wage Rates

Change Order No.: GC2-202



DORMITORY AUTHORITY OF THE STATE OF NEW YORK
515 Broadway
Albany, New York 12207

LABOR RATE WORKSHEET

Contractor Name: <u>G.M. CONCETTI INC</u>		Date: <u>9/26/02</u>	
Address: <u>3960 MERRITT AVENUE</u>		DASNY Project No.: <u></u>	
Telephone No.: <u>718 774 0100</u>		Location: <u>BARNUCH COLLEGE</u>	
LABOR RATE BREAKDOWN (Use a separate sheet for each trade and classification)			
Trade: <u>TEAMSTER ASSISTANT - TEAMMAN</u>			
Check One Box Only: Union Shop: <input checked="" type="checkbox"/> Local #: <u>7</u>			
Open Shop: <input type="checkbox"/>			
Effective Dates for Wage Rates: From <u>7/1/01</u> To <u>7/31/01</u>			
		REGULAR TIME	PREMIUM TIME
		3.30	4.50
A. BASE RATE PER HOUR		3.30	4.50
BENEFITS: (Check All Taxable Benefits That Apply)	Taxable Benefits	% per hour	\$ per hour
Vacation & Holiday	<input checked="" type="checkbox"/>	%	\$ 2.00
Health & Welfare	<input type="checkbox"/>	%	\$ 5.60
Pension	<input type="checkbox"/>	%	\$ 4.15
Annuity	<input type="checkbox"/>	%	\$ 3.00
INTL OAC PNC	<input checked="" type="checkbox"/>	%	\$.03
Supplemental Unemployment	<input type="checkbox"/>	%	\$ 2.00
Security Fund DEFENSE Fd.	<input checked="" type="checkbox"/>	%	\$.05
LOCAL PNC	<input checked="" type="checkbox"/>	%	\$.02
TRAVEL EXPENSE	<input checked="" type="checkbox"/>	%	\$ 1.42
DATE PENSION	<input type="checkbox"/>	%	\$ 1.50
INTL	<input type="checkbox"/>	%	\$.22
PROMOTIONAL FUND	<input type="checkbox"/>	%	\$.10
BURDEN FUND	<input checked="" type="checkbox"/>	%	\$.10
FOREMAN'S PAY	<input checked="" type="checkbox"/>	%	\$ 4.29
B. TOTAL BENEFITS PER HOUR		3.30	4.50
PAYROLL TAXES AND INSURANCE		3.30	4.50
FICA	7.65%	2.91	4.20
Federal Unemployment	.60%	.31	.44
State Unemployment	3.70%	1.42	2.03
Workman's Compensation	8.13%	3.28	4.74
Disability	.40%	.15	.15
Gen. Liability	6.50%	2.50	2.50
C. TOTAL TAXES AND INSURANCE PER HOUR		3.30	4.50
D. TOTAL LABOR RATE (A+B+C)=		3.30	4.50
SECTION D: CONTRACTOR'S CERTIFICATION			
I certify that the labor rates on this worksheet are the applicable prevailing wage rates, and that the labor rates, insurance costs, labor fringe benefit amounts, and expenses are the actual and true costs incurred.			
Signature: <u>Michael E. Bobar</u>		Notary Public, State of New York	
Print Name of Authorized Representative: <u>Payroll Manager</u>		Notary Public, State of New York	
Title: <u>Payroll Manager</u>		Notary Public, State of New York	

Pay roll taxes & insurance %s apply to gross pay as follows

CCCU - 02-26-2001

Reg Time
38.48

15x
542

2x
725

SEP 05 2002 19:36

① One hour extra pay - per day, 32.52 x 150/wk

TOTAL P. 02
PAGE. 02
150
35

** TOTAL PAGE. 03 **

06/11/2002 13:47 FAX 518 257 3468

DASNY 3rd FLOOR

002

MAY 09 2002 14:45 FR GM CROCETTI

7189944525 TO 12126790237

P.03/03

PAGE 2/3



DEPARTMENT OF COMMUNITY DEVELOPMENT
515 Broadway
Albany, New York 12207

LABOR RATE WORKSHEET

Contractor Name: <u>G M CROCETTI INC</u>		Date: <u>5/8/02</u>	
Address: <u>3960 MARSHALL AVENUE</u>		DASNY Project No.: <u></u>	
Telephone No.: <u>BRONX N.Y. 10464</u>		Location: <u>BARUCH COLLEGE</u>	
LABOR RATE BREAKDOWN (Use a separate sheet for each trade and classification)			
Trade: <u>TELEPHONE ASSISTANT</u>			
Check One Box Only: Union Shop: <input checked="" type="checkbox"/> Local #: <u>7</u>			
Open Shop: <input type="checkbox"/>			
Effective Dates for Wage Rates: From <u>7/1/01</u> To <u>12/31/01</u>			
A. BASE RATE PER HOUR		REGULAR TIME	PREMIUM TIME
		530.57	445.96
		530.57	445.96
BENEFITS (Check All Applicable Benefits That Apply)			
Vacation & Holiday	<input checked="" type="checkbox"/>	2.00	4.00
Health & Welfare	<input type="checkbox"/>	5.60	11.20
Pension	<input type="checkbox"/>	4.15	7.15
Annuity	<input type="checkbox"/>	3.00	6.00
WFL - SAC PGC - 2	<input checked="" type="checkbox"/>	.03	.06
Supplemental Unemployment	<input type="checkbox"/>	2.00	2.00
Security Fund (MPLA & FA)	<input checked="" type="checkbox"/>	.05	.10
LOCAL PNC	<input checked="" type="checkbox"/>	.02	.04
TRAVEL EXPENSE	<input type="checkbox"/>	1.42	1.42
INTL PENSION	<input type="checkbox"/>	1.50	1.50
IMT	<input type="checkbox"/>	.32	.64
PROMOTIONAL FUND	<input type="checkbox"/>	.10	.10
RETIRED FUND	<input checked="" type="checkbox"/>	.10	.20
(Identify Variable Benefits)	<input type="checkbox"/>		
B. TOTAL BENEFITS PER HOUR		5.20	10.94
PAYROLL TAXES AND INSURANCE			
FICA	7.65 %	2.60	5.92
Federal Unemployment	.80 %	.37	.30
State Unemployment	3.20 %	1.26	2.46
Workers' Compensation	1.20 %	.43	.79
Disability	.40 %	.14	.14
State Unemployment	6.50 %	2.21	2.21
(Hourly Insurance plus medical benefits) \$ _____ times _____ %	27.63 %		
C. TOTAL TAXES AND INSURANCE PER HOUR		5.41	10.20
D. TOTAL LABOR RATE (A+B+C)=		5.41	10.20
SECTION D: CONTRACTOR'S CERTIFICATION			
I certify that the labor rates on this worksheet are the applicable prevailing wages, and that the latter rates, insurance costs, labor fringe benefit amounts, and expenses are the actual and true costs incurred.			
Signature: <u>Michael E. Boral</u>		Signature: <u>Michael E. Boral</u>	
Print Name: <u>MICHAEL E. BORAL</u>		Print Name: <u>MICHAEL E. BORAL</u>	
Title: <u>Physical Manager</u>		Title: <u>Physical Manager</u>	

COCU-02-26-2001

① P/LR TAXES & INS. 7% apply to gross pay as follows

Reg. Time	1 1/2 x	2 x
33.99	50.98	66.98

JAN 08 2002 11:24

MICHAEL ZANZANO
Notary Public, State of New York
No. 60 488-7788
Qualified in Westchester County
Certification Filed in Bronx County
Commission Expires Aug 31, 2005

DASNY_TRAVELERS2 154934

08/11/2002 13:48 FAX 518 257 3468

DASNY 3rd FLOOR

003

MAY 09 2002 14:45 FR GM CROCETTI

7189944505 TO 12126790037

P.02/03

PAGE 2/3



DEPARTMENT OF LABOR, STATE OF NEW YORK
515 Broadway
Albany, New York 12207

LABOR RATE WORKSHEET

Contractor Name: GM Crocetti Inc. Date: 5/8/02
Address: 3960 Merritt Ave DASNY Project No.:
BRONX, NY 10466 Location: Baruch College Site B
Telephone No.: (718) 994-0900

LABOR RATE BREAKDOWN (Use a separate sheet for each trade and classification)

Trade: Concrete Terrazzo MechanicCheck One Box Only: Union Shop: ☒ Local #: 7Open Shop: ☐Effective Dates for Wage Rates: From 7/1/01 To 12/31/01

REGULAR TIME PREMIUM TIME
TIME 3.51.88 47.02
3.51.88 47.02

A. BASE RATES PER HOUR

BENEFITS: (Check All Applicable Benefits That Apply)	Fixed Benefits	% per hour	\$ per hour	REGULAR TIME	PREMIUM TIME
Vacation & Holiday	<input checked="" type="checkbox"/>	%	\$ 2.00	2.00	3.00
Health & Welfare	<input checked="" type="checkbox"/>	%	\$ 5.60	5.60	11.20
Pension	<input checked="" type="checkbox"/>	%	\$ 4.15	4.15	4.15
Annuity	<input checked="" type="checkbox"/>	%	\$ 3.00	3.00	4.50
International Brotherhood of P.R.G.	<input checked="" type="checkbox"/>	%	\$.03	.03	.03
Security Fund (Contractor's Fund)	<input checked="" type="checkbox"/>	%	\$.02	.02	.02
Travel Expense	<input checked="" type="checkbox"/>	%	\$.05	.05	.05
International Pension	<input checked="" type="checkbox"/>	%	\$ 1.42	1.42	1.42
EMI	<input checked="" type="checkbox"/>	%	\$ 1.50	1.50	1.50
Proportional Fund	<input checked="" type="checkbox"/>	%	\$.22	.22	.22
Building Fund	<input checked="" type="checkbox"/>	%	\$.10	.10	.10
Unemployment S. & O. Fund	<input checked="" type="checkbox"/>	%	\$.10	.10	.10
(Monthly Variable Benefits)	<input type="checkbox"/>	%	\$ 2.00	2.00	2.00

B. TOTAL BENEFITS PER HOUR

PAYROLL TAXES AND INSURANCE 5.33.29 5.33.29 5.33.29

FICA	7.65%	2.70	20.39
Federal Unemployment	.80%	.18	4.00
State Unemployment	3.70%	1.31	1.93
Workers' Compensation	8.63%	3.05	4.51
Disability	.40%	.14	.14
General Liability	6.50%	2.29	2.29
	27.68%		

C. TOTAL TAXES AND INSURANCE PER HOUR

D. TOTAL LABOR RATE (A+B+C) 5.97 13.29 16.80

SECTION D: CONTRACTOR'S CERTIFICATION

I certify that the labor rates on this worksheet are the applicable prevailing rates, and that the labor rates, insurance costs, labor fringe benefit amounts, and expenses are the actual and true costs incurred.

Michael E. Borae
Signature

Michael E. Borae
Print Name of Authorized Representative

Payroll Manager
Print Title

Sworn before me this 9 day of May 2002

Michael E. Borae
Notary Public

Michael E. Borae
Notary Public, State of New York
No. 68-468-7768

Qualified in Westchester County
Certificate Filed in Bronx County
Commission Expires Aug 31, 2005

* Supplemental Insurance - Pension Fund

CCCU-02-26-2001

① P.R. Taxes & Insurance % apply to gross totals as follows

Reg time 1.25 2.25
1.25 2.25



DORMITORY AUTHORITY OF THE STATE OF NEW YORK
515 Broadway
Albany, New York 12207

LABOR RATE WORKSHEET

Contractor Name: G.M. CROGETTI INC Date: 9/26/02
Address: 3960 HERALD AVENUE DASNY Project No.:
BRONX NY 10464 Location: BARUCH COLLEGE
Telephone No.: 718 994 0900

LABOR RATE BREAKDOWN (Use a separate sheet for each trade and classification)
Trade: TERMINAL MECHANIC - FOREMAN
Check One Box Only: Union Shop: ☒ Local # 7
Open Shop: ☐
Effective Dates for Wage Rates: From 7/01/01 To 12/31/01

				REGULAR TIME	PREMIUM TIME	DOUBLE TIME
				31.87	47.82	63.25
A. BASE RATE PER HOUR						
BENEFITS: (Check All Taxable Benefits That Apply)	Taxable Benefits	% per hour	\$ per hour			
Vacation & Holiday	<input checked="" type="checkbox"/>	%	\$ 2.00	2.00	3.00	4.00
Health & Welfare	<input type="checkbox"/>	%	\$ 5.40	5.40	11.20	11.20
Pension	<input type="checkbox"/>	%	\$ 4.15	4.15	4.15	4.15
Assembly	<input type="checkbox"/>	%	\$ 3.00	3.00	4.50	6.00
INTL PAC AIC	<input checked="" type="checkbox"/>	%	\$.03	.03	.045	.06
LOCAL PAC	<input checked="" type="checkbox"/>	%	\$.02	.02	.03	.04
DEFENSE FUND	<input checked="" type="checkbox"/>	%	\$.05	.05	.075	.10
TRAVEL EXPENSE	<input checked="" type="checkbox"/>	%	\$ 1.42	1.42	1.42	1.42
INTL PENSION	<input type="checkbox"/>	%	\$ 1.50	1.50	1.50	1.50
INTL	<input type="checkbox"/>	%	\$.22	.22	.22	.22
PROMOTIONAL FUND	<input type="checkbox"/>	%	\$.10	.10	.10	.10
BUILDING FUND	<input checked="" type="checkbox"/>	%	\$.10	.10	.15	.20
WELFARE SUB FUND	<input type="checkbox"/>	%	\$ 2.00	2.00	2.00	2.00
FOREMAN'S PAY	<input checked="" type="checkbox"/>	%	\$ 4.24	4.24	4.24	4.24
B. TOTAL BENEFITS PER HOUR			\$ 24.48	\$ 24.48	\$ 32.62	\$ 35.28
PAYROLL TAXES AND INSURANCE						
FICA		7.65%	3.02	4.15	5.15	
Federal Unemployment		.80%	.32	.45	.59	
State Unemployment		3.70%	1.47	2.09	2.73	
Workmen's Compensation		0.63%	.24	.40	.63	
Disability		.40%	.16	.16	.16	
<u>46</u>		6.60%	2.59	2.59	2.59	
(hourly base rate plus taxable benefits) \$ <u>30.14</u>						
C. TOTAL TAXES AND INSURANCE PER HOUR				\$ 11.84	14.35	18.04
D. TOTAL LABOR RATE (A + B + C) =				\$ 41.73	46.97	53.32
SECTION D: CONTRACTOR'S CERTIFICATION						
I certify that the labor rates on this worksheet are the applicable prevailing wage rates, and that the labor rates, insurance costs, labor fringe benefit amounts, and expenses are the actual and true costs incurred.						
Signature: <u>Michael E. Boscia</u>		MICHAEL ZANZANO Notary Public, State of New York No. 00 483-7763 Qualified in Westchester Co. Certificate Filed in Bronx County Public Commission Expires Aug 31, 2003				
Print Name of Authorized Representative: <u>Payroll Manager</u>						
Print Title: <u></u>						

1/2 Taxes & Insurance 9.1

CCCU - 02-26-2001 APPLY TO UNIONS TAXABLE AS FOLLOWS:

Reg Time 1 1/2 2 1/2
39.2 56.2 73.2

SEP 25 2002 19:36

CCCU CONTROL UNIT
DORMITORY AUTHORITY
TOTAL P.02
PAGE.02

EXHIBIT F

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

TRAVELERS CASUALTY AND SURETY COMPANY as
Administrator for RELIANCE INSURANCE COMPANY,

Plaintiff,

- against -

DORMITORY AUTHORITY – STATE OF NEW YORK,
TDX CONSTRUCTION CORP., and KOHN PEDERSEN
FOX ASSOCIATES, P.C.,

Defendants.

DORMITORY AUTHORITY OF THE STATE OF NEW
YORK and TDX CONSTRUCTION CORP.,

Third-Party Plaintiffs,

- against –

TRATAROS CONSTRUCTION, INC.,

Third-Party Defendant.

TRATAROS CONSTRUCTION, INC. and TRAVELERS
CASUALTY AND SURETY COMPANY,

Fourth-Party Plaintiffs,

- against –

CAROLINA CASUALTY INSURANCE COMPANY,
BARTEC INDUSTRIES, INC., DAYTON SUPERIOR
SPECIALTY CHEMICAL CORP. a/k/a DAYTON SUPERIOR
CORPORATION, SPECIALTY CONSTRUCTION BRANDS,
INC. t/a TEC, KEMPER CASUALTY INSURANCE
COMPANY d/b/a KEMPER INSURANCE COMPANY,
GREAT AMERICAN INSURANCE COMPANY,
NATIONAL UNION FIRE INSURANCE COMPANY OF
PITTSBURGH, PA., UNITED STATES FIRE INSURANCE
COMPANY, ALLIED WORLD ASSURANCE COMPANY
(U.S.) INC. f/k/a COMMERCIAL UNDERWRITERS
INSURANCE COMPANY, ZURICH AMERICAN
INSURANCE COMPANY d/b/a ZURICH INSURANCE
COMPANY, OHIO CASUALTY INSURANCE COMPANY
d/b/a OHIO CASUALTY GROUP, HARLEYSVILLE
MUTUAL INSURANCE COMPANY (a/k/a
HARLEYSVILLE INSURANCE COMPANY), JOHN DOES
1-20 AND XYZ CORPS. 1-20,

Fourth-Party Defendants.

Case No.
07 Civ. 6915 (DLC)

**DEFENDANT DORMITORY
AUTHORITY OF THE
STATE OF NEW YORK'S
INITIAL DISCLOSURES**

Pursuant to Fed. R. Civ. P. 26(a)(1), defendant Dormitory Authority of the State of New York ("DASNY"), by its undersigned counsel, makes the following initial disclosures:

A. The name and, if known, the address and telephone number of each individual likely to have discoverable information that the disclosing party may use to support its claims or defenses, unless solely for impeachment, identifying the subjects of the information.

INDIVIDUAL	SUBJECTS OF INFORMATION
Jay Goldstein c/o DASNY One Penn Plaza 52nd Floor New York, New York 10119-0098 (212) 273-5000	Administration of Project, primarily after substantial completion.
Chuck Bartlett c/o DASNY 515 Broadway Albany, New York 12207-2964 (518) 257-3000	Review and administration of requests for contract adjustments and claims.
Douglas M. Van Vleck c/o DASNY 515 Broadway Albany, New York 12207-2964 (518) 257-3000	Administration of DASNY's construction program and administration of the Project.
Enrico J. Bianchi AIA c/o DASNY 515 Broadway Albany, New York 12207-2964 (518) 257-3000	Administration of Project.
Michael Kolk AIA c/o DASNY One Penn Plaza 52nd Floor New York, New York 10119-0098 (212) 273-5000	Administration of Project.
Nicholas D'Ambrosio c/o DASNY One Penn Plaza	Management and administration of Project construction.

52nd Floor New York, New York 10119-0098 (212) 273-5000	
John Mueller c/o DASNY 515 Broadway Albany, New York 12207-2964 (518) 257-3000	Review and administration of requests for contract adjustments and claims.
James H. Jones, P. E. c/o TDX Construction Corp. 345 Seventh Avenue New York, New York 10001 (212) 279-1981	Management of Project.
John McCullough c/o STV Construction 225 Park Ave. South New York, New York 10003 (212) 777-4400	Management of Project construction.
Ray Leu c/o TDX Construction 345 Seventh Avenue New York, New York 10001 (212) 279-1981	Management of Project construction.
James R. Jones c/o TDX Construction 345 Seventh Avenue New York, New York 10001 (212) 279-1981	General Project administration.
Anthony Mockler c/o TDX Construction 345 Seventh Avenue New York, New York 10001 (212) 279-1981	General Project administration.
Boris Alperovich c/o TDX Construction 345 Seventh Avenue New York, New York 10001 (212) 279-1981	General Project administration.
John Barrera	General Project administration.

c/o TDX Construction 345 Seventh Avenue New York, New York 10001 (212) 279-1981	
William Larson-White c/o TDX Construction 345 Seventh Avenue New York, New York 10001 (212) 279-1981	Administration with respect to Project's mechanical systems.
Tom Spinthourakis c/o TDX Construction 345 Seventh Avenue New York, New York 10001 (212) 279-1981	General Project administration; Trataros' work on Project.

DASNY reserves the right to supplement, amend or modify this list as discovery in this action progresses.

B. A copy of, or a description by category and location of, all documents, electronically stored information, and tangible things that are in the possession, custody, or control of the party and that the disclosing party may use to support its claims or defenses, unless solely for impeachment.

The categories of information that DASNY may use include the following: bid proposals, budgets, estimates, contracts, bulletins, addenda, subcontracts, payment and performance bonds, plans, drawings, specifications, shop drawings, submittals, change order proposals, change orders, claims, correspondence, memoranda, transmittals, notices of direction, schedules, payment applications and supporting documentation, daily reports, monthly progress reports, manpower reports, requests for information, testing reports, inspection reports, punch lists, meeting minutes, photographs and videotapes. This information is presently located at Baruch College, Information and Technology Building, 151 E. 25th Street, New York, New York.

DASNY reserves the right to supplement, amend or modify this list as discovery in this action progresses.

C. A computation of any category of damages claimed by the disclosing party, making available for inspection and copying as under Rule 34 the documents or other evidentiary material, not privileged or protected from disclosure, on which such computation is based, including materials bearing on the nature and extent of injuries suffered.

DASNY is seeking the following categories of damages from Travelers and/or Trataros in this case:

- Additional costs paid to Trataros' subcontractors attributable to Trataros' delays, disruptions and impacts – \$1,805,621.
- Additional costs paid to other Prime Contractors attributable to Trataros' delays, disruptions and impacts – \$4,651,373.
- Additional project management and administrative costs attributable to Trataros' delays, disruptions and impacts – \$2,155,039.
- Cost to replace defective epoxy terrazzo flooring – estimated to cost at least \$20,000,000.

DASNY is seeking the following categories of damages from KPF in this case:

- Additional costs paid to Trataros' subcontractors attributable to KPF's design errors and/or omissions – \$2,800,149.
- Additional costs paid to Prime Contractors attributable to KPF's design errors and/or omissions - \$7,800,050.
- Additional project management and administrative costs attributable to KPF's design errors and/or omissions – \$5,897,617.
- Unreimbursed costs attributable to foundation design - \$9,588,318.

- Potential liability for allegedly defective design of automatic temperature control systems - \$11,200,000.
- Cost to remediate snow/ice accumulation issues attributable to design errors and/or omissions – estimated to cost at least \$8,500,000.

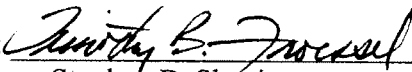
Documents upon which DASNY's damages calculations are based will be made available for inspection and copying at Baruch College, Information and Technology Building, 151 E. 25th Street, New York, New York, at such date and time as can be mutually agreed upon by counsel. DASNY reserves the right to supplement, amend or modify its damages calculations as discovery in this action progresses.

D. Any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy a judgment.

Upon information and belief, DASNY does not control any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in this action or to indemnify or reimburse for payments made to satisfy the judgment.

Dated: New York, New York
November 27, 2007

HOLLAND & KNIGHT LLP
*Attorneys for Defendants Dormitory
Authority of the State of New York and
TDX Construction Corp.*

By: 
Stephen B. Shapiro
Timothy B. Froessel
195 Broadway
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To: Eli J. Rogers, Esq.
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26 Columbia Turnpike
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Attorneys for Plaintiff

David Abramovitz, Esq.
Zetlin & DeChiara LLP
801 Second Avenue
New York, New York 10017
Attorneys for Defendant
Kohn Pedersen Fox Associates, P.C.

74935430.v1

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08/30/08 12:18 AM



EXHIBIT G

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK
4 CASE NO.: 08-CV-6915 (DLC)

-----x

4 TRAVELERS CASUALTY AND SURETY COMPANY
5 as Administrator for RELIANCE INSURANCE
6 COMPANY,

7 Plaintiff,

8 -against-

9
10 DORMITORY AUTHORITY-STATE OF NEW YORK,
11 TDX CONSTRUCTION CORP. and KOHN PEDERSON
12 FOX ASSOCIATES, P.C.,

13 Defendants.

14 (CAPTION CONTINUED)

-----x

15 August 12, 2008

16 10:00 a.m.

17
18 DEPOSITION of CRAIG NEGUS,
19 held at the offices of Holland & Knight,
20 195 Broadway, New York, New York, before Eileen
21 Mulvenna, CSR/RMR, Certified Shorthand Reporter,
22 Registered Merit Reporter and Notary Public of
23 the State of New York.
24
25

1 Craig Negus

2 MR. PLATEK: "No idea."

3 A. No, no idea. I had no knowledge of
4 that.

5 Q. Would your work then proceed
6 sequentially in time after the grinding process?
7 So in other words, if grinding was required, TDX
8 would perform that first and then the
9 underlayment would follow next?

10 MR. ZICHELO: Where?

11 MR. PLATEK: Objection.

12 MR. FROESSEL: Objection to form.

13 MR. PLATEK: Do you mean in the same
14 area?

15 MS. BONACCI: Right.

16 Q. Let me clarify the question for you.
17 If grinding was occurring, would
18 there be a need for underlayment? Do you
19 understand what I'm asking? Does the grinding
20 bring the floor to tolerance such that you don't
21 follow with underlayment grind?

22 MR. SCHRECKINGER: Objection.

23 THE WITNESS: Do I --

24 MR. PLATEK: You can answer if you
25 can.

Craig Negus

A. To my knowledge, they were doing their own thing. Yes, it needed underlayment. But I had nothing to do with it. I wouldn't go near it.

Q. So in the areas where grinding was occurring, then, do you know who placed underlayment if it was required?

MR. ZICHELO: Objection to form.

A. I do not know who did the underlayment -- other than TDX. I saw TDX later on doing underlayment with a few bags of my material, a few bags of Crocetti's material, whatever they had.

Q. Do you recall where you saw -- where in the building physically you saw --

A. 1st floor lobby.

Q. 1st floor lobby.

And do you recall when that occurred in time?

A. No. By that time, I was in the basement.

Q. When you say you were in the basement, Bartec was performing its scope in the basement?

1 Craig Negus

2 A. Working, right.

3 MR. PLATEK: He didn't mean he was
4 at the Hillary rally.

5 (Discussion off the record.)

6 Q. Other than the 1st floor lobby, do
7 you recall seeing TDX performing underlayment
8 work in -- other than the 1st floor lobby, do you
9 recall seeing TDX perform underlayment work
10 anywhere else in the building?

11 A. No. I would notice the difference
12 when I came in in the morning if I wasn't working
13 at night. They did a lot of after-hour work.

14 Q. TDX did a lot of after-hour work?
15 And when you say you would notice
16 the difference, how would you notice the
17 difference?

18 A. What they scarified was covered.

19 MS. SMITH: Could I just interrupt
20 for a second? Is this just in the lobby
21 area, then?

22 THE WITNESS: No, all over.

23 MS. SMITH: All right.

24 MS. BONACCI: It's not clear?

25 MS. SMITH: No.

1 Craig Negus

2 MS. BONACCI: Okay.

3 BY MS. BONACCI:

4 Q. You definitely saw them in the
5 1st floor lobby; right?

6 A. Yes.

7 Q. TDX performing its own underlayment
8 work?

9 A. Yes.

10 Q. And then you've indicated there's
11 additional times in the building where TDX
12 performed its own underlayment work; is that
13 accurate?

14 MR. PLATEK: I don't think that's
15 what his testimony was, but I'll allow him
16 to answer the question.

17 MS. BONACCI: Why thank you.

18 A. I didn't do it. Whoever else did
19 it, I don't know.

20 Q. So there's underlayment work that
21 was performed that Bartec did not perform?

22 A. Yes.

23 Q. In areas beyond the 1st floor lobby?

24 A. Yes.

25 MR. PLATEK: And in areas that you

1 Craig Negus

2 had seen TDX scarifying.

3 THE WITNESS: Yes.

4 Q. When you saw TDX scarifying, can you
5 tell me what it was that they were doing, what
6 type of scarification.

7 A. Cutting down high spots in the
8 floor.

9 Q. With that Von Arx machine?

10 A. Yes.

11 MR. PLATEK: How do you spell that?

12 MS. RAICUS: What is the name,
13 Varnak?

14 THE WITNESS: It's V-O-N A-R-K
15 [sic]. And it's -- it's --

16 MR. PLATEK: You answered the
17 question. We all know.

18 BY MS. BONACCI:

19 Q. Do you know which TDX employees -- I
20 know you indicated that it was under the
21 direction of Mr. Barrera, but which TDX employees
22 you saw in the 1st floor lobby performing the
23 underlayment work?

24 A. Laborers from 79, my union. And
25 John Green was the labor foreman. Those are the

1 Craig Negus

2 only names I know.

3 Q. When you indicated that TDX had used
4 some bags of your materials, would those have
5 been bags that were part of the bag count that
6 was proceeding under what's been marked as --

7 A. No.

8 Q. -- T75?

9 A. No, I lost approximately 400 bags on
10 that job.

11 Q. 400 bags of material?

12 A. Uh-huh.

13 MS. SMITH: That was a yes?

14 THE WITNESS: Yes.

15 MS. SMITH: Thank you.

16 Q. How did you come to that count?

17 A. They disappeared.

18 Q. Do you know at approximately what
19 point in time they disappeared?

20 A. Slowly.

21 Q. Was it around the same point in time
22 when you saw the work occurring on the 1st floor
23 lobby by TDX?

24 A. I can't recall.

25 Q. Did you happen to bring that to

1
2 STATE OF NEW YORK)

3 ss:

4 COUNTY OF NEW YORK)
5

6 I, Eileen Mulvenna, Notary Public
7 within and for the State of New York, do hereby
8 certify:
9

10 That I reported the proceedings in
11 the within entitled matter, and that the within
12 transcript is a true record of said proceedings.
13

14 I further certify that I am not
15 related to any of the parties to the action by
16 blood or marriage, and that I am in no way
17 interested in the outcome of this matter.
18

19 IN WITNESS WHEREOF, I have hereunto
20 set my hand this 14th day of August, 2008.
21

22 

23 _____
24 Eileen Mulvenna, CSR/RMR
25